

# MIDDLESBROUGH COUNCIL

## Final Report of the Regeneration Scrutiny Panel

### PLANNING CAPACITY

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## **THE AIM OF THE SCRUTINY REVIEW**

1. The aim of the review is to examine the current issues with regard to planning capacity and ensure that the Council continues to offer timely planning services to Middlesbrough residents.
2. The review aims to assist the Local Authority in achieving its strategic priority:

**Quality of Service** - we will ensure that we place communities at the heart of what we do, continue to deliver value for money and enhance the reputation of Middlesbrough.

## **TERMS OF REFERENCE**

3. The terms of reference, for the scrutiny panel's review, are as follows:
  - A) To understand the current position in terms of Middlesbrough Council's present planning capacity, building control and enforcement provision.
  - B) To examine any non-statutory functions currently provided by Middlesbrough Council's planning service.
  - C) To consider measures, including joint working with other local authorities, that could be put in place to mitigate any gaps in the current service.
  - D) To investigate what additional resources, if any, can be accessed from Central Government or other bodies to assist with improving planning capacity.
  - E) To consider any potential implications/impact/challenges of the Regeneration and Levelling Up Bill on planning services.

## **BACKGROUND INFORMATION**

4. In line with the terms of reference, the Scrutiny Panel gathered evidence in relation to Middlesbrough Council's Planning Service. Planning is a statutory function of the Council. Planning and Development supports the economic growth of the town and the Council's aspirations to create the right developments in the right places with the appropriate infrastructure.
5. Relevant planning legislation includes:
  - The Town and Country Planning Act 1990.
  - The Planning and Compulsory Purchase Act 2004.
  - The Planning Act 2008.
  - The Localism Act 2011.

Statutory Instruments:

- The Town and Country Planning (Local Planning) (England) Regulations 2012.
- The Town and Country Planning (Development Management Procedure) (England) Order 2010 (and subsequent Amendments).
- The Community Infrastructure Levy Regulations 2010.

It should be noted that the above list of relevant legislation is not exhaustive.

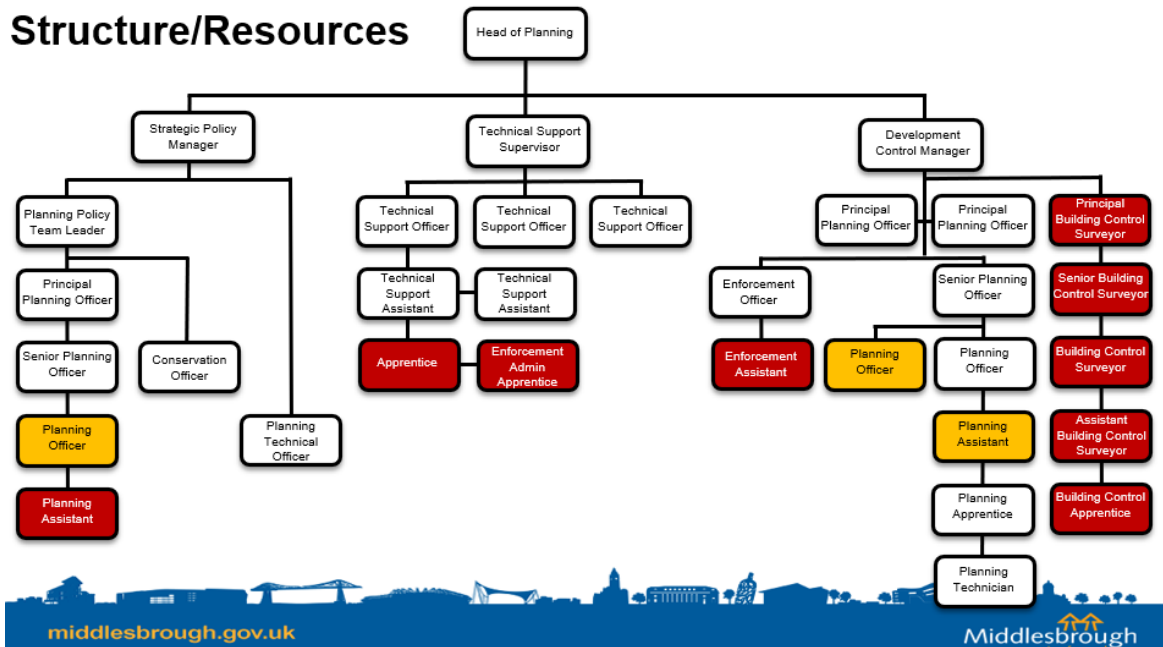
6. The Statutory functions of the Council's Planning Service include:

- Production of a Local Plan.
- Neighbourhood Planning.
- Conservation.
- Brownfield Register.
- Self-build Register.
- Planning Applications.
- Adverts.
- High Hedges.
- Habitat Regulations.
- Enforcement of Building Regulations.
- Dangerous Structures.
- Local Land Searches.
- Freedom of Information (FOI) Requests.

**SUMMARY OF EVIDENCE**

**Term of Reference A – To understand the current position in terms of Middlesbrough Council's present planning capacity, building control and enforcement provision**

7. Middlesbrough Council's Planning Services are organised into two key areas: Strategic Policy (including Planning Policy, Conservation and Strategic Housing) and Development Control (including Building Control).



8. The organisation chart at paragraph 7 above was correct as at October 2023, at the time of the scrutiny investigation. There were nine vacancies in Planning Services, as shown in red. The three posts shown in yellow have since been recruited to, and the Development

Control Team will be fully staffed from 6 December 2023. Several of the vacant posts are career grades and a number of posts are part-time. When previous restructures have taken place, staff in post have been slotted in and permitted to change their hours. This has created pressures going forward since budgets have been cut back to allow those reduced hours contracts.

9. Some of the new posts that were created in November 2022 have taken a long time to recruit into. The Planning Apprentice took up their post in October 2023 but there has been no success in recruiting an Enforcement Assistant to date and the Apprentice to support that post remains as a vacancy.
10. Vacant posts are advertised on the Council's website, Jobs North East, in planning magazines and on building control websites. The Council has also approached universities to promote job vacancies.

### Performance

11. The national performance measures for determining planning applications within 13 weeks are shown in brackets below. If the performance measures are not met the Council could be at risk of being put in special measures by the Government.

#### **Speed of decision making (Oct 2021 – Sep 2023):**

Majors	59%	(60%)
Non-major	75%	(70%)

#### **Quality of decision making (Apr 2020 – Mar 2022):**

Majors	0%	(10%)
Non-major	1.1%	(10%)

12. Under the Town and Country Planning Act 1990, Designation is applied where a planning authority is not meeting performance targets. Middlesbrough is slightly below the threshold of 60% for the speed of decision making on major applications between October 2021 and September 2023 and therefore potentially at risk. Middlesbrough is below the threshold on major applications and has won every major appeal and only lost 1.1% of non-major appeals.
13. If a planning authority is Designated, it will lose its planning powers. Applicants will have the option of applying directly to the Planning Inspectorate who will receive the fee. However, the Planning Authority will still need to prepare a report and make a recommendation on the application. Being Designated will also harm the reputation of the Planning Authority. Only one Council in England is currently Designated. Ten Councils have been on the Government's "minded to designate" list recently and managed to avoid it, and seven are awaiting a decision. If a Planning Authority is not meeting the performance targets it will receive a letter from DLUHC, usually in early January asking the Authority to outline any "exceptional circumstances". The Planning Authority has two or three weeks to respond to DLUHC.
14. In January 2024, Middlesbrough Council received a letter from the DLUHC regarding Designation. DLUHC requested confirmation that the data on their assessment was correct and the Council had two weeks to respond.
15. The service area has undertaken a review of the data and ascertained that it is incorrect. On major applications, the data provided by Government details 52% determination rate. However, on Council data, the rate is 67%, which is above the 60% requirement. A

number of applications have been miscoded on the Service Area's relatively new IT system and some extensions of time, a key requirement, have not been actioned correctly. The errors relate to four applications and the government figures cover the period October 2021 to September 2023. The Council has provided evidence to confirm the 67% rate and processes and procedures will be put in place to ensure that errors are not repeated. Following submission of the data corrections, Middlesbrough Council received confirmation in March 2024 that the Authority is no longer at risk of designation for the period.

16. Issues that have affected Middlesbrough's performance include:

- Covid/lockdown.
- IT matters.
- Pre-application queries.
- Quality of applications.
- Capacity issues.
- Planning service.
- Consultees (highways, drainage, external).
- Skills.
- Recruitment.
- Nutrient neutrality.
- Emerging/changing legislation.
- Community involvement/engagement.
- Mayoral Development Corporation.

17. Since the Covid-19 Pandemic there has been a slight change in the mix of planning applications. More people are working from home and need extra space for home offices. There has been restrictions on site visits which made it more difficult to deliver within timescales.

18. The Council's move to increase hybrid working for staff following the Pandemic has also had an impact on the team. The planning service uses specialist equipment which is only accessible in the office and the Council's current arrangements for office-based working does not always enable team members to sit together. Working together in the same physical environment also provides for better integration and training of new recruits.

19. At the end of 2019 the service started to introduce a new IT system and unfortunately it had not been introduced as effectively as envisaged. A more effective and user-friendly website would also encourage more self-service and take up less officer time dealing with routine enquiries.

20. Large housing development applications take up an enormous amount of Officer time, whereas householder extensions can be turned around quite quickly. Due to the lack of capacity in the service, Principal Officers are dealing with smaller applications reducing the time they have to concentrate on large applications.

21. The planning service is reliant on others in its decision making and the Council currently has only one Officer available to provide advice on highways and drainage. That Officer has many other requirements on their time. Awaiting comments from internal as well as external consultees, often slows down applications. There is also a lack of skilled personnel at the Council in areas such as design, ecology and arboriculture and therefore external advice has to be sought.

22. Emerging legislation has introduced new requirements including nutrient neutrality, a performance management regime, infrastructure levy, and statutory requirements including having to have design codes across the town, all of which will take up additional officer time to develop and produce.
23. Community involvement and engagement is a critical element of planning services and there is a higher level of response to applications than previously, as well as a higher level of complaints. This is a national issue as the environment is becoming more important to people. Every comment submitted is read and logged and included in planning application reports submitted to the Planning and Development Committee.
24. The inception of the Mayoral Development Company (MDC) in 2023 created more work as Middlesbrough Council initially carried on dealing with planning applications on the MDC's behalf. Since 1 June 2023 however, planning applications within the Mayoral Development Area are determined by the MDC.
25. Currently the Council employs one Enforcement Officer and there are approximately 400 outstanding enforcement cases. The Council previously had four years from when the potential breach is notified to deal with the issues, and ten years for a change of use. However, in the Levelling-Up and Regeneration Act 2023, the time limit has been amended in the case of a breach of planning control in England, to ten years beginning with the date on which the operations were substantially completed.

#### Planning Advisory Service (PAS) – Review of Development Management

26. The Planning Advisory Service (PAS) is part of the Local Government Association and runs projects funded by the Department for Levelling Up, Homes and Communities (DLUHC), the Department for Environment, Food and Rural Affairs (DEFRA) and Natural England. PAS support English Planning Authorities to provide effective and efficient planning services and help the implementation of changes in the planning system. PAS carries out reviews for Planning Authorities on a regular basis and contacted Middlesbrough Council after noting a dip in the speed of decision making, as noted at paragraph 11 above.
27. Using the PAS Development Management Toolkit a quick review of Development Management was undertaken which looked at the Council's key development management statistics such as the number of applications received, how quickly they were processed and validated and officer caseloads. Decision making processes, IT, administration, workload management and consultation were examined.
28. The review focussed on three key elements over one day to ascertain what the issues were, what Middlesbrough Council was doing well and not so well, and suggested areas that could be improved upon. PAS drew on best practice and issues experienced by other Councils to share, as well as experience of what worked well.
29. Planning and Development Committee, Political Leadership, Planning Enforcement and the Appeals Process were not included in this quick review and the Consultants only spoke with Officers.
30. Key positives with regard to Middlesbrough's service listed in the PAS review report include:
  - Good back office and software systems.
  - Some very good staff at all levels.
  - Staff who have specialist skills - telecommunications, trees etc.

- Manageable caseloads if staff in place and software is fully exploited.
- Good communication with corporate communications on Major developments.
- Making good decisions – Major decisions not being overturned at appeal.

31. Issues for improvement include:

- Lack of an up-to-date Local Plan.
- Planning seen as a barrier corporately.
- Lack of effective staff development programme – no staff appraisals.
- Staff vacancies.
- Staff not spending enough time physically working together.
- Slow and uncoordinated consultation responses and lack of specialists in key areas such as Biodiversity Net Gain.
- Software not used to its full potential.
- Lack of consistency in processes.
- Website not as informative as it could be.

32. In order to address the issues identified, the PAS report made short, medium and long term recommendations as follows:

**Short Term:**

- Officers should spend a day each week in the office and sit together.
- Strengthen management capacity and give Principal Officers more decision-making powers.
- Make best use of software for work management and monitoring performance – Agile Planning and Power BI.
- Carry out regular case reviews to speed up the process.
- Improve website to reduce time spent on queries and complaints - better signposting to the Planning Portal.
- Take a firmer approach to informal advice - direct people to the pre-application service.

**Medium Term:**

- Bring together existing process notes and guidance for case officers into a single Development Management Manual.
- Develop standard wording and templates for reports.
- Develop and agree a consultation protocol with both internal and external consultees, including agreed standing advice.
- Take a stronger line on validation and amendments – enforce one opportunity to amend.

**Longer term:**

- Promote the role of Planning corporately as place-making rather than a hurdle to overcome.
- Develop better relations with local agents and developers:
  - Establish an agent's forum.
  - Consider an accredited agents' scheme
- Develop the pre-application offer using the PAS guidance.

33. A report to progress the recommendations would be considered by the Council's Leadership and Management Team (LMT). An action plan showing the current implementation status of the PAS recommendations has been included in the submission to the Department for Levelling Up, Homes and Communities (DLUHC) in response to the Designation letter received in January 2024.

**Term of Reference B - To examine any non-statutory functions currently provided by Middlesbrough's planning service**

34. Non-Statutory functions currently provided by the Council include:
- The Local List.
  - Housing Strategy.
  - Supplementary Planning Documents/Development briefs.
  - Pre-planning Application Advice.
  - Enforcement.
  - Article 4 Directions.
35. Middlesbrough's Local List<sup>1</sup> currently has 91 buildings and sites on it including structures, parks, gardens and open spaces identified as being of historical or special local architectural interest. The Local List does not include nationally important buildings, of which there are 126 on the statutory list in Middlesbrough. However, in a national context, Middlesbrough is a relatively young town and therefore some important buildings and sites do not meet the criteria to be listed. Through having a Local List these significant buildings and sites which are not protected statutorily, are recognised in the planning process and any changes are managed sympathetically and positively to sustain and enhance their significance.
36. In 2017 Middlesbrough Council published its Housing Strategy<sup>2</sup>. This is an important document that sets out the Council's housing priorities and how these will be achieved. The key objectives are to:
- Meet the housing needs and aspirations of a growing population.
  - Improve the life opportunities of residents in areas of poor quality housing and deprivation.
  - Address the pressures of an ageing population and support vulnerable people to live independent lives for as long as possible.
37. Supplementary Planning Documents support the planning process by setting out the design standards required by the Council. Design Statements provide guidance on any changes that need planning permission and aim to protect the characteristics of the local area. Whilst not statutory, they have proved useful when considering applications in such areas as Nunthorpe and Stainsby, as well as dismissing appeals.
38. Pre-planning application queries almost doubled between 2017 and 2021. Whilst this takes up officer time, it is an important task, otherwise the quality of the application might be poor and then timescales are more likely to be missed. Previously, pre-applications could be turned around within 8 weeks but with the increased numbers it is now more likely to be 10 to 13 weeks.
39. In April 2023 charges were introduced for some pre-application services. Depending on the scale of the proposed development there are five levels of pre-application advice which reflect the amount of time it takes to provide the advice. Free advice is provided on whether

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<sup>1</sup> <https://www.middlesbrough.gov.uk/media/bgpxu5f/conservation-local-list-2011.pdf>

<sup>2</sup> <https://www.middlesbrough.gov.uk/media/bnjlehm3/housing-strategy-2017-20.pdf>



planning permission is required (for householders), listed building consent, whether a tree is covered by a tree preservation order (TPO), whether a property or tree is in a conservation area, or area under an Article 4 direction.<sup>3</sup> Since the fees were introduced, fewer applicants are accessing the service.

40. The charges for pre-application advice are reviewed regularly and at the time this report was written are as follows:

Development type	Initial fee	Additional fees
Householder / other	Written advice - £100 Site visit if requested - £100 Meeting if requested - £100	£200 per additional meeting and/or written advice
Minor developments	Written advice - £500 Site visit if requested - £150 Meeting if requested - £150	£300 per additional meeting or written advice
Major developments	£1,800 <ul style="list-style-type: none"> <li>• One meeting involving all necessary officers</li> <li>• Site visit</li> <li>• Written advice</li> </ul>	£500 per additional meeting with written advice
Strategic developments	£2,500 <ul style="list-style-type: none"> <li>• One meeting involving all necessary officers</li> <li>• Site visit</li> <li>• Written advice</li> </ul>	£500 per additional meeting or written advice

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41. The Council is taking a stronger stance on applicants who do not heed the advice given at the pre-application stage and is now more likely to refuse poor applications than continue to ask for amendments. It should be noted however that this stance has also led to more complaints about the planning service, which then have to be processed, adding to officers' workloads.
42. Enforcement cases have risen dramatically since the Covid-19 Pandemic as many householders started work without seeking permission. The quality of applications has deteriorated over the last five years.
43. The Council currently prioritises enforcement activities in relation to Article 4 and conservation in Linthorpe in order to protect Middlesbrough's heritage. Guidance is available on the Council's website in relation to conservation areas and officers use their professional judgement to check with the required standards have been met when alterations have been made. The sanction for non-compliance with planning regulations is

<sup>3</sup> <https://www.middlesbrough.gov.uk/planning-and-development/pre-application-advice/>

<sup>4</sup> <https://www.middlesbrough.gov.uk/planning-and-development/pre-application-advice/>

usually a fine. There is national recognition that enforcement needs to be strengthened public awareness raised on this issue.

44. An Article 4 direction removes various forms of permitted development right usually associated with a property. It is generally used to prevent development that would harm the character of the area.

**Term of Reference C – To consider measures, including joint working with other local authorities, that could be put in place to mitigate any gaps in the current service**

**Planning and Development – Council Website**

45. The recent review by the Planning Advisory Service (PAS) had highlighted that the Planning and Development section of Middlesbrough Council's website is not as informative as it could be and highlights the following areas for improvement:
- Focus on reducing officer time spent on general enquiries and promoting the information available to applicants and the public.
  - Planning has a poor web presence, with many enquiries being handled by the technical team and other officers, which could easily be avoided with direction to an accessible website.
  - Updates needed to reduce time spent on queries and complaints. This includes highlighting the importance of the following sections:
    - The standard of applications required.
    - Local validation list.
    - Protocol for resubmitting invalid applications or amending validated applications.
    - Clearer sign-posting to the Planning Portal for advice.
    - Availability of the pre-application service.
46. The PAS identified some other local authorities' websites that they consider best practice examples. Officers have reviewed those websites and are currently working with the Digital Team to create an improved Middlesbrough website with greater use of images to help promote information.
47. If the information provided on the website can be developed to be much more user friendly, applicants will not need to take up officer time and can be confident that they have a suitable scheme to submit. The aim is to get the website information in a workable format so that applicants can submit forms online. It will also be mobile friendly since 85% of the Council's current website users use mobile devices to access it.
48. It is anticipated that the website development will take approximately six months to complete.

**Shared Services**

49. The Scrutiny Panel gathered evidence from two Local Authority Shared Services: South Oxfordshire and Vale of White Horse District Councils and South Hams and West Devon Councils.

### South Oxfordshire and Vale of White Horse District Councils

50. South Oxfordshire and Vale of White Horse District Councils became a shared service in approximately 2010, when all Councils' services and the majority of officers became shared, from the Chief Executive to Planning Administration.
51. Planning is one team serving two Councils, so each Council maintains its sovereignty, and the team reports to two planning Committees and separate Cabinet Members/Cabinets' Councils for policy.
52. The Planning Service reports performance, finance, etc per Council and hosts two separate websites.
53. A Joint Local Plan is currently out to consultation and there are other joint documents and strategies in place including a Design Guide and a Planning Enforcement Statement.
54. There are efficiencies in joint working such as reduced costs. Having a larger team makes it more resilient and able to support specialist staff from ecologists, landscape, urban design and transport planners.
55. Whilst there had been some challenges which included: securing a single computer system and Geographic Information System (GIS), officer culture, shared working (staff are still employed by one or other Councils), the importance of General Data Protection Regulation (GDPR) and confidentiality in planning pre-applications, the shared service had proved successful and will continue.

### South Hams and West Devon Councils

56. The two Councils have worked together since 2006 and deliver a wide range of services, including planning, for residents and businesses across south west Devon in a shared service partnership.
57. South Hams and West Devon are separate Local Authorities with their own budgets but with a joint pool of staff and a single Chief Executive. West Devon is a relatively small authority with South Hams being much larger and there are some recharge rates between the two to ensure service provision is fair and equitable.
58. South Hams and West Devon each have their own Constitutions with Schemes of Delegation that mirror each other. Both Councils have different enforcement strategies but endeavour to take the same approach.
59. South Hams has a Development Management Committee for determining planning applications and West Devon has a Development Management and Licensing Committee. Serving the requirements of both planning committees, which generally meet around a week apart, is one of the notable difficulties of the shared planning service. The operational requirement of meeting deadlines for publication of agendas and co-ordinating reports is a difficult job. There are also different dynamics and inter relationships with Members at both authorities to manage.
60. Across the shared service approximately 75 members of staff are employed which includes officers for conservation, planning policy, business and enforcement. There is also an

Urban Fringe Team comprising another 7 members of staff. The Urban Fringe Delivery Team works with the planning services to support the delivery of large and complex sites within the Plymouth Urban Fringe.

61. In terms of finance, moving to a shared service with only one Chief Executive produced a huge amount of cost savings, albeit in the initial delivery of the shared service, staffing for planning services was reduced. However, over the past three years there has been more investment into planning services and new posts have been brought in.
62. In terms of providing development management it was highlighted that the shared service did not make any income from planning fees once all the costs of providing the service were factored in. However having the ability to move officers around and share the available resources is useful.
60. Following a review by the Planning and Advisory Service (PAS), capacity within the service has been increased with council specific posts for Head of Development and Head of Enforcement for each authority as well as an Assistant Director Planning.
62. Whilst each Council has its own Planning Policy Officers, there is a joint team for the Joint Local Plan. The Plymouth and South West Devon Joint Local Plan covers the administrative areas of Plymouth City, South Hams District and West Devon Borough and forms part of the Development Plan for these areas. It was created by all three Councils and adopted by each one in 2019. The Supplementary Planning Document (SPD) which provides guidance on the implementation of the Local Plan has also been adopted and shared by the three authorities as well as other documents such as the Climate Emergency Planning Statement.
63. Having shared service provision has also proved useful when bidding for project funding. On example is the £185,000 funding from the Planning Skills Delivery Fund, which was the second largest amount awarded across the country.

**Term of Reference D - To investigate what additional resources, if any, can be accessed from Central Government or other bodies to assist with improving planning capacity**

64. Middlesbrough Council applied for funding from the Government's Planning Skills Delivery Fund. This Fund provides support to local authorities to help clear backlogs of planning applications and address skills gaps. In December 2023 the Council was informed that its bid for funding had been successful as follows:  

Backlog funding:	£80,000 (100% of the amount applied for)
Skills funding:	£20,000 (25% of the amount applied for)
65. The backlog funding will be split £20K each on enforcement support, planning support, highways input and flooding input into the planning process. The skills funding will be used to develop new Design Codes as required by the Levelling Up and Regeneration Act 2023.
66. Pathways to Planning is a Government programme aimed at supporting aspiring graduates into the planning sector. The Department for Levelling Up, Housing and Communities (DLUHC) has provided £1.59 million to the Local Government Association to fund this new scheme. The intention is that graduates will work in Council planning teams for a minimum of three years whilst completing a fully funded postgraduate course at the same time.

67. The programme launched in September 2023 and the first cohort of graduates will start work in spring 2024. Pathways to Planning offers Councils:
- *marketing and recruitment of a diverse pool of candidates at no cost.*
  - *a bursary of £5,000 per graduate to help fund graduates' study on an RTPI-accredited Master's programme, or cover costs associated with a Level 7 apprenticeship.*
  - *a community of support for your graduate(s) and your team.*<sup>5</sup>
68. Middlesbrough Council has already recruited a Planning Degree Apprentice and the cost of the degree being undertaken is met through the Apprenticeship Levy. Whilst the Pathways to Planning route would pay for the degree course, Middlesbrough Council would still have to pay the apprentice's salary and therefore the current arrangement is more cost effective.
69. The Planning Advisory Service (PAS) is part of the Local Government Association and receives an annual grant from The Department for Levelling Up, Housing and Communities to enable it to provide support to councils. PAS is funded to help get local plans up-to-date, improve decision-making and also hosts events on topical issues.<sup>6</sup> As referenced at paragraph 26 of this report, PAS has recently undertaken a Review of Development Management at Middlesbrough Council.

**Term of Reference E - To consider any potential implications/impact/challenges of the Levelling Up and Regeneration Bill on planning services**

70. In May 2022, the government published the Levelling Up and Regeneration Bill. The Bill received Royal Assent on 26 October 2023 and contains provisions that allow the government to reform the planning system. "The Act:
- establishes a new category of national planning policies: National Development Management Policies (NDMPs). NDMPs will sit alongside local plans in decision-making on planning applications.
  - creates a statutory requirement for Local Planning Authorities (LPAs) to produce a single local plan and update it every five years. Separate to the Act, the government said it would introduce reforms to require LPAs to produce local plans within a 30-month timeframe.
  - abolishes the 'duty to cooperate', which requires LPAs to cooperate with each other and with certain other bodies in preparing their local plan. A new 'flexible alignment policy' will replace the duty to cooperate.
  - introduces a statutory requirement for LPAs to prepare design codes, setting design requirements for developments in their local area."<sup>7</sup>

These provisions have not yet taken effect and will require regulations to be brought into force. At the time of writing this report, the government has not set out a timetable for this."

<sup>5</sup> <https://www.local.gov.uk/pathways-planning-council-info>

<sup>6</sup> <https://www.local.gov.uk/pas/our-work/about-us>

<sup>7</sup> House of Commons Library: Planning reforms in England: Levelling Up and Regeneration Act 2023 and further changes – Research Briefing – 5 December 2023 – By Felicia Rankl

71. The Regeneration Scrutiny Panel received a presentation from the Head of Policy Practice and Research at the Royal Town Planning Institute (RTPI). The presentation focussed on the following elements of the Levelling-Up and Regeneration Act 2023:
- The Act brings in a requirement to prepare Environmental Outcomes Reports (EORs) which replace the existing Strategic Impact Assessments (SIAs) and Environmental Impact Assessments (EIAs) and are more streamlined. Environmental Assessments are currently quite broad and can include issues such as social and economic impact. However the EORs are limited to environmental outcomes set by government ministers. This will be quite a change for planning applications and local plans.
  - The Community Infrastructure Levy (CIL) and much of the Section 106 payments system are replaced with a new national infrastructure levy. Where and how infrastructure spending is allocated will be determined by local infrastructure delivery strategies.
  - New Street Vote powers are introduced that allow residents on a street to bring forward proposals to extend or redevelop their properties in line with their design preferences. So long as development rules and other statutory requirements are met, a referendum of residents will be held to determine whether planning permission should be granted.
  - National Development Management Policies (NDMPs) are introduced which will, in future, have priority over Local Plans.
  - There are proposals for two tier Council areas in England to co-operate more in planning terms, which will be useful for the development of Local Plans.
  - On behalf of the UK planners, the RPTI proposed an amendment to the Bill to bring in legislation that would allow Planning Committees to be held virtually. The temporary measure introduced during the Covid-19 Pandemic was useful and enabled a greater variety of people to be involved in planning. Unfortunately the amendment has not been enacted.

### **ADDITIONAL INFORMATION**

72. Fees for building control are set locally whereas the development control fees are set nationally. The fees for major planning applications increased by 35% from 5 December 2023 and for minor applications by 25%. The fees will rise annually in line with inflation from next April.
73. Planning applications within the Mayoral Development Area are determined by the MDC and since 5-10% of the Council's current planning applications come from within the MDC area, this will be a loss of approximately 30% of future fee income to Middlesbrough Council. As a result, there would be a bigger impact in terms of income but less impact in terms of staff resource.

## 74. **CONCLUSIONS**

Based on the evidence provided throughout the investigation, the Regeneration Scrutiny Panel concluded that:

- The Panel examined the findings of the quick review of Development Management carried out by the Planning Advisory Service in September 2023 and notes their recommendations to improve the speed of decision-making in line with government requirements.
- It is acknowledged that the review did not include Planning and Development Committee, Planning Enforcement or the Appeals Process and that performance of these areas can also potentially be improved.
- Middlesbrough Council currently has two Officers, based within the Environment Directorate, available to provide advice on highways and drainage and other planning powers. There is a lack of skilled personnel in areas such as design, ecology and arboriculture. Having to seek external advice can add delay to decision-making on planning applications.
- The increase in the number of enforcement cases is of great concern to the Panel. The two posts that support the Enforcement Officer have been vacant for a considerable length of time. The Panel also notes that due to the current high volume of work, the timescales listed in paragraphs 2.9 and 2.10 of the planning enforcement manual will not apply for the foreseeable future. With the limited available resources, the Council currently prioritises enforcement activities in relation to Article 4 and conservation in Linthorpe in order to protect Middlesbrough's heritage.
- The Panel is pleased to note the recent award of funding from the Government's Planning Skills Fund that will assist in addressing the backlog in enforcement support, planning support, highways and flooding input into the planning process and also used to develop new Design Codes as required by the Levelling Up and Regeneration Act 2023.
- In relation to shared services it was apparent that there can be efficiencies not only with regard reduced costs but that having a larger team naturally provides more resilience and expertise.

## **RECOMMENDATIONS**

75. The Regeneration Scrutiny Panel recommends to the Executive:

- The Council should ensure that the recommendations of the Planning Advisory Service's Development Management Review are implemented in full to ensure that the Planning Service continues to be able to meet government performance targets in relation to decision-making.
- Implementation of the PAS recommendations in relation to the following should be prioritised and enhanced:
  - The Development Control Team should work together from the office in Fountains Court for a minimum of one day each week. Practical barriers to team working, for example, "block booking" space in the shared office should be addressed without delay.

- Continue to embed the Agile Planning system and recently acquired Power BI system into the DM process, make time to provide (and maintain) a practical guide to the system for case officers.
- Dedicated training is provided for staff to enable them to use the relevant specialist IT systems to their full potential.
- Consideration be given to inviting the Planning Advisory Service to undertake a full review of the Planning Service to include Planning and Development Committee, Planning Enforcement or the Appeals Process.
- Create a new Highways Officer post within the Planning Services Structure to provide a dedicated resource and as far as possible, eliminate delay in the planning application process.
- Investigate with the other Tees Valley Local Authorities whether there is potential to create a shared pool of statutory consultees who have expertise in the relevant disciplines such as highways, drainage, design, ecology and arboriculture.
- Explore with the Council's Human Resources Service whether, in addition to current recruitment practice, there are any further opportunities to more widely promote vacant posts, such as the enforcement posts, in the Planning Service.
- Give consideration to establishing a pooled enforcement team of specialist officers to work together to address all areas of enforcement that fall within the Council's remit. This could be particularly helpful where multiple issues of non-compliance related to the same individual or property.
- In conjunction with the Council's Digital Team review whether the information provided on the Council's website in relation to the town's conservation areas can be given a higher profile and/or made more user-friendly, to better inform residents who might be considering alterations to their properties and potentially reduce the numbers of enforcement cases.

## **ACKNOWLEDGEMENTS**

76. The Regeneration Scrutiny Panel would like to thank the following for their assistance with its work:

Richard Blyth, Head of Policy Practice and Research, Royal Town Planning Institute (RTPI)  
 Paul Clarke, Head of Planning, Middlesbrough Council  
 Adrian Duffield, Head of Planning, South Oxfordshire and Vale of White Horse District Councils  
 Peter Ford, Planning Advisory Service  
 Andrew Glossop, Development Control Manager, Middlesbrough Council  
 Alistair Wagstaff, Assistant Director Planning, South Hams and West Devon Councils

## **ACRONYMS**

77. A-Z listing of common acronyms used in the report:

CIL - Community Infrastructure Levy  
 DLUHC - Department for Levelling Up, Housing and Communities  
 EIA - Environmental Impact Assessments



EOR - Environmental Outcomes Report  
GIS - Geographic Information System  
GDPR – General Data Protection Regulation  
LPA – Local Planning Authority  
MDC – Mayoral Development Corporation  
NDMPs - National Development Management Policies  
PAS – Planning Advisory Service  
RTPI – Royal Town Planning Institute  
SIA - Strategic Impact Assessment  
TPO – Tree Preservation Order

## **BACKGROUND PAPERS**

78. The following sources were consulted or referred to in preparing this report:

- House of Commons Library: Planning reforms in England: Levelling Up and Regeneration Act 2023 and further changes – Research Briefing – 5 December 2023 – By Felicia Rankl
- Middlesbrough Council - Development Management Review - Final report 27 September 2023 – Planning Advisory Service (PAS)
- Middlesbrough Council website – Pre Application Advice
- Middlesbrough Council - Middlesbrough Housing Strategy 2017-2020
- Middlesbrough Council - Middlesbrough Local List 2011
- Middlesbrough Council's Strategic Plan 2021-2024
- Pathways to Planning: information for Councils – Local Government Association website
- Planning Advisory Service – About Us – Local Government Association website
- Reports/presentations to, and minutes of, the Regeneration Scrutiny Panel held on 11 October, 1 November, 6 December 2023, 17 January 2024 and 14 February 2024

### **COUNCILLOR IAN BLADES CHAIR OF THE REGENERATION SCRUTINY PANEL**

**Regeneration Scrutiny Panel Membership:** Councillors I Blades (Chair), N Hussain (Vice Chair), J Ewan, S Hill, L Hurst, D Jackson, J Kabuye, I Morrish, J Ryles

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