

Isle of Man

Planning Peer Review

A report from the IDeA

August 2008

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Summary

- 1 Planning has a high profile in the Isle of Man. There is a lot of interest in it in by the public and across government. The planning service has been successful in facilitating important initiatives for other government departments and is well thought of for the expertise it brings. However, planning could take a more strategic role for the government, and involved in helping shape the initial discussions about developments rather than being asked to advise or approve when decisions have already been made. There are concerns that this would compromise the impartiality of the planning service, but this does not have to be the case and an important opportunity is being missed.
- 2 The planning service undertaken some modernising reforms in recent years. A new strategic plan has been developed with more focused on the needs of the island and is an excellent basis for progress. The independent planning committee now meets in public and is more open. We have made some suggestions for improvements in the operation of the planning committee to make it more accessible and easier to understand for the public. There is a need for more transparency around the decision making process in order to maintain the reputation of planning. Planning committee members would also benefit from a programme of training and development.
- 3 The planning system retains some unique features, such as the third-party right of appeal. This is popular with residents and gives them a considerable degree of power. However it can be a cause of long delays in finalising decisions on developments. There is no appetite for removing this right. However we have made some suggestions about possible ways that this could be reformed.
- 4 The planning service is subject to a wide range of demands, there is a high workload as well as pressures from various external sources. These pressures are inhibiting progress, and there seems to be an inertia which is difficult to move. The policy framework is not up to date and this makes robust decision-making difficult. The current programme of developing area plans will take some time, and may not be deliverable within the planned timescale. Stronger managerial leadership is needed to drive progress and make further reforms.
- 5 Customer focus needs to improve. Planning officers give good advice when they can be contacted, but they are not responsive to customers. The public do not know what to expect in terms of timescales or standards of service from planning or enforcement. We suggest publishing a charter setting out these standards. There is a lack of guidance for developers on issues of design and sustainability. The planning website needs development to provide more information, online access to planning applications and the ability to submit plans and applications online.
- 6 There is a need for more rigorous resource and performance management, both in development control and enforcement. At present, although everyone accepts that the planning process is too slow, there is no focus on improving performance. There is a lack of reliable data, no hard targets, and no clear priorities. Some important changes to operating practices are needed, and a more robust approach to managing performance is called for. This is most essential if additional resources are to be properly justified and targeted to where they are needed.
- 7 Communication between managers and planning staff needs to improve, to take advantage of the ideas of planning staff. Developing a culture based on customer service, high standards of performance, and 'one organisation' should be a priority.

Recommendations

8 We have made a number of observations throughout the body of the report that we hope will help the planning service on the Isle of Man improve. We have also covered separately (appendix one) a number of issues raised by the Select Committee report on the Poacher's Pocket, and made some detailed suggestions (appendix two) for improvements to the planning committee. We have not repeated all this material here. We wish to make the following key recommendations:

A) Prioritise research and data collection to ensure a robust evidence base to underpin policy

- Consider if there should be a government-wide resource for this
- Agree firm protocols with other departments to produce and provide data

B) Deliver a robust planning policy framework

- Reconsider whether fewer area plans would provide a more sustainable work programme for planning policy
- Consider if more resources may be needed to deliver a more up-to-date policy framework within a reasonable timescale
- Develop associated design and sustainability guidance

C) Strengthen leadership within the department .

- Agree priorities for managers and ensure that managers operate at appropriate strategic (chief executive and director) and operational (senior planner) levels.
- Improve communications within the department, providing more opportunities for staff to discuss changes and contribute ideas for continual improvement
- Agree priorities for the planning service
- Ensure that outside influences are not allowed to postpone or distract from service improvements

D) Strengthen the strategic contribution of planning across government

- Agree with the council of ministers and chief executives of other departments that the director of planning should be consulted at an early stage to help shape the development of strategy involving any spatial elements
- For example seek strategic input from planning in the present assets review

E) Make changes to the operation of the planning committee (see appendix two)

F) Consider and consult upon our suggestions for developments to the third party right of appeal (paragraph 41) to maintain an effective process while avoiding undue delays

G) Provide training and development for local authority commissioners to help them exercise the appeal function effectively as local community representatives

H) Improve the flexibility and effectiveness of the planning service

- Make structural changes to the development control and support functions – one flexible team
- Analyse and categorise work to enable straightforward applications to be dealt with by suitably trained staff other than planning officers
- Extend levels of permitted development to be similar to levels in comparable (in environment and/or heritage terms) English authorities
- Prioritise the workload in development control and enforcement
- Develop a workforce plan setting out needs for current and future skills and staff numbers, to include cover for key individuals

I) Strengthen the focus on customer service

- Set, publish and keep to standards of service for development control and enforcement
- Set up a user forum and conduct user surveys focused on improving the service to users
- Consider training for support staff for 'one stop' enquiries; introduce a duty planning officer or similar contact arrangements
- Provide customer care training for staff and develop a culture of customer care
- Provide a more comprehensive applications checklist and guidance for applicants

J) Manage performance effectively for the benefit of the public

- Improve routine performance data collection and analysis in development control and enforcement
- Set, monitor and manage 'hard' performance targets taking account of risks and complexity
- Clear the applications backlog – using support staff appropriately for straightforward applications. Consider if some external resources may be needed to tackle this

K) Develop a comprehensive e-planning strategy to include public accessibility and standards of data etc

Background

- 9 The visit to the Isle of Man planning service was undertaken by the Improvement and Development Agency for local government (IDeA) from the UK. A peer review is designed to help the service assess its current achievements and its capacity to change, and continue to improve.
- 10 The basis for assessment is a specially constructed benchmark of the ideal, fully effective planning service. The benchmark focuses on four key organisational themes: leadership and governance, customer focus and community engagement, achieving outcomes effectively and sustainably, and people, performance and resource management. The planning systems in the UK and Isle of Man are similar and it was possible to apply the benchmark with some adaptations made by the planning service to reflect differences. The planning service produced a self assessment using the benchmark, in advance of the review; this provided key areas for the team to focus their research.
- 11 The peer review is not an inspection, rather it offers a supportive approach, undertaken by 'critical friends', and its intention is to help the planning service identify its current strengths, as well as what it needs to improve. Its strength is in the use of current senior planning officers and councillors as peers.
- 12 Peer review is part of an ongoing change process, whereby the resultant recommendations from it should inform improvement planning
- 13 The members of the peer review team were
 - David Potter, Director of Planning and Transport Strategy, Swindon Borough Council
 - Vincent Haines, Head of Planning and Building Control, Bracknell Forest Borough Council
 - Councillor Bertie MacKay, chairman Warwick District Council planning committee
 - Sarah Richards, National Adviser Places and Prosperity, IDeA
 - Neil Woods, IDeA Review Manager
- 14 The programme for the visit was organised and agreed in advance. The on-site work included a variety of activities designed to enable members of the team to meet and talk to a spectrum of internal and external stakeholders. Examples of activities the team undertook are:
 - desk review of materials prior to the on-site work
 - discussions with political and managerial leaders
 - discussions with the planning committee chair and committee members
 - discussions with the senior management of the planning service
 - discussions with a range of internal stakeholders

- discussions with a range of key stakeholders
- workshops for frontline staff, planning service managers, and representatives of some residents

- 15 The team was very appreciative of the genuine welcome and hospitality provided by the service. We would like to thank everybody that we met during the process for their time and contributions. The way in which the needs of the team were taken care of in the build up to the review and whilst on site, deserve a special mention.
- 16 The feedback presentation on the last day of the review reported on the key messages. This report gives a more detailed written account of the findings of the review and is structured around the four main organisational themes within the benchmark used for this peer review.

1. Leadership and corporate engagement

1.1 Vision and direction

- 17 There is a degree of consensus among senior politicians on the Isle of Man about the needs of the island, and 'Freedom to Flourish' expresses a positive vision for the Isle of Man. The consensus has allowed successful developments such as in the promenade area in Douglas. This to some extent compensates for the lack of an up-to-date policy framework in planning.
- 18 We found there was considerable political support for an improved and more strategic planning service. The Minister For Local Government And Environment was very clear about his wish to see a strategic service. And he expressed to the planning staff very clearly his support to them. Other ministers were also very supportive of the service. There appears to be a genuine desire to see planning taking a more central strategic role for the Isle of Man government. In particular, there is considerable support for the current Director Of Planning and Building Control and to give him the capacity to take on a more strategic role.
- 19 The island strategic plan is relatively new and a significant advance for planning on the Isle of Man. It explicitly links to the aims of the Isle of Man government, and expresses a spatial vision. It is locally distinctive, reflecting well the character of the island, and sets out a clear strategic policy framework for the island's planning. It represents an important opportunity as an underlying basis for improved planning on the island.
- 20 However, the policy framework for planning is not up to date. Local area plans, which set out the detailed planning policies for the different parts of the island, date back to 1999, and in some cases before that, and do not reflect the current needs of the island. This lack of a current policy framework makes it more difficult to make robust planning decisions. This is all the more important in an environment where, as indicated below, planning decisions are often subjected to challenge. The planning service is going through the process of reviewing and renewing the local plans into four area plans, but it will be a long time before a full set of area plans is in place (see paragraph 64). This represents a serious risk to effective delivery of the strategic plan.
- 21 The development of robust area plans is being inhibited by not having extensive research and evidence base. There is some research expertise within the planning service, and this is being used to good effect. However, data from other government departments does not seem to be available. For example; there appears to be a lack of good transport information to support the plans. We are not clear why this is. It may reflect a lack of research capacity within the Department of Transport. Whatever the reason, it is important that this data is found in order to make good progress with the area plans. Suitable arrangements need to be made between the different government departments to make sure that spatial plans are informed by a wide range of robust data. If data is not being collected in other departments, means need to be found to do it. This could be either through service level agreements with other departments, or by using and expanding the expertise within the planning service to set up suitable systems to collect it. A solid evidence base is important and it will need resources to be found or redirected. Data collected must be shared.
- 22 Managerial leadership needs strengthening. It was clear to us that the Director of Planning and Building Control was subject to a wide range of external pressures and work demands. His level of involvement in operational matters, makes it difficult for him to exercise a more strategic role. Demands such as answering questions in Tynwald and responding to Select Committees also

absorb a lot of time. We believe that he needs both more support from the chief executive and to be able to delegate more effectively to other staff in the directorate. Our impression is of frequent delays in various initiatives, with a directorate pulled in different directions. There is a need for a clearer understanding of priorities, and more effective management of these pressures. Part of this may be a capacity issue (see paragraph 77) and having clearly defined roles and responsibilities.

- 23 The lack of clarity about the priorities of the service is mirrored in the way that planning applications or enforcement complaints are dealt with - i.e. in a purely sequential way. This contributes to the slowness of the planning system which is considered within parts of the government and outside as being ultimately to the detriment of the economic development of the Isle of Man.

1.2 Integration of policy and delivery

- 24 The planning service is seen across the government as an effective internal consultant, and excellent facilitator of major government projects. The chief executives of other departments spoke very highly of the involvement of the planning service. Planning had played an important role in delivering projects such as the new prison, hospital development, and schools. As we highlight below, in relation to asset planning, this is not really a strategic role for planning – helping shape government strategy and plans, but is more about helping other departments negotiate the planning system.
- 25 The planning system has been subject to a range of reforms. Introduction of the new strategic plan, the changes to the operation of the planning committee, and changes to the rules on permitted development, are all examples of changes made over the last three years in order to provide a more effective planning service.
- 26 Planning is not yet seen across the government as a whole, as a key strategic partner to enable progress with its strategic initiatives. The role of planning is still seen as primarily regulatory, rather than as an enabler of the government's key strategic objectives. A specific example of the limited involvement of the planning service in wider government thinking is the current review of the government's assets including its property. The planning service is not involved in this review even though the government has considerable property assets, and how they are used is an important strategic issue for the government, and could be important in spatial planning terms. The delivery of major new assets can have a significant socio-economic effect as a part of a coordinated plan for regeneration or in attracting inward investment. This wider benefit is at risk of being missed.
- 27 The reluctance to involve the planning service early in government discussions about policy or strategy for the island is widespread. A common perception was that such involvement would compromise the impartiality of the service in its role of deciding or advising upon possible subsequent planning applications. We believe this is a misapprehension. It should be possible for planning to undertake this important enabling role without being compromised. Not doing so is to miss an important opportunity to use planning expertise to further the government's aims. Planning could make a more effective contribution if involved in drawing up proposals rather than just checking them afterwards.
- 28 It is not clear what the mechanism is for developing the island strategic plan alongside the government's strategy. The island strategic plan does contain links to government strategy, however, we heard that it was now part of the governments strategy for economic growth to

"attract individuals of high net worth". We also heard that a barrier to this is the lack of availability of exclusive homes. Current planning policy does not really support this aim. It is not clear how this mismatch will be resolved.

1.3 Decision-making and scrutiny

- 29 The separate decision-making roles of the minister, the planning committee and planning officers are well understood by those involved. In fact, as indicated above, considerable lengths are taken in order to ensure that the impartial roles of planning officers, and of the planning committee, are maintained. Similarly issues of probity are well understood and have, from time to time, been the subject of the examination by Select Committees or commissions of inquiry.
- 30 The Minister for Local Government and the Environment has roles that can be difficult to reconcile. He needs to be able to make decisions to deliver upon government policy and his own political commitments; he is responsible for decisions arising from the findings of the planning inspector in planning appeals. The Director of Planning And Building Control also has different roles in that he makes planning decisions under delegated authority, but is also responsible for giving planning advice to the minister. Instances such as the Poacher's Pocket Select Committee mean that the minister and director are wary about potential conflicts of interest. On appeals for example, the minister will want advice and the director may have made the original decision under delegated authority. However the director needs to be able to give advice to the minister on specific cases as well as to exercise a strategic advisory role. We see no reason why he should not fulfil that role, but it does depend upon transparency in both the decision making and advice to reduce the risk of legal challenge. It is the minister's prerogative to make decisions in the national interest, with advice on planning policy from the director.
- 31 Tynwald has a robust Select Committee system. Select committee enquiries are very thorough, and they are effective in holding the planning service to account. The recent Select Committee enquiry into the piece of land known as Poacher's Pocket raised various questions about the way decision-making powers were delegated to planning officers. It posed some questions for this review and we have tried to deal with these in an appendix.
- 32 However the extent of the Select Committee enquiries relating to the planning service has not only consumed a substantial amounts of the capacity within the planning service in researching and responding to questions, it has also led to an inertia in the service. It seems that while there is a Select Committee enquiry going on, all new service developments or initiatives are on hold. It is difficult to tell whether this is because of an unwillingness to move on until an issue is settled, or whether it is due to a lack of capacity due to resources being consumed in responding to the enquiries. Either way it has a detrimental effect on the ability of the service to improve and it is important that the planning service manages find a way of making progress at the same time. Given the importance of planning in shaping and delivering government policy through the planning process, the diversion of resources to the scrutiny process poses a risk to the delivery of government objectives and projects.
- 33 The independent nature of the planning committee is well established in the Isle of Man. Unlike in England, where planning committee members are all politicians, although the chair of the planning committee is a member of the Legislative Chamber, the other members are independently appointed through a selection process. They are not members of Tynwald. Planning committee members take their roles very seriously. Planning officers provide them with good quality reports on the planning applications they will have to make decisions on.

- 34 Planning committee members do not receive adequate training. There is a fair amount of experience on the committee, and the chair is particularly knowledgeable and experienced. However there is no programme of training in place for members to ensure that they have a good understanding of planning policy and the current planning issues. This is important to ensure that they are not too reliant upon the advice of planning officers and able to make informed decisions.
- 35 There is some room for improvement in the way that the planning committee operates. It is only comparatively recently that the planning committee has met in public, and this shows in the way it operates. The lack of formality that may be appropriate in a meeting behind closed doors, is not so appropriate in a public meeting. When members of our team attended a planning committee meeting they noted in particular that it was difficult to tell who was who, and sometimes to hear what people were saying. Some officer advice given during committee seemed to be anecdotal rather than evidence-based. We have separately (see appendix) listed a number of improvements that should be considered in order to make the planning committee a more effective public decision-making forum.

2. Customer focus and community engagement

2.1 Transparency of process for users

- 36 The right of appeal against planning decisions by third parties is effective in holding the planning committee, and officers under delegated powers to account and mitigating the effects of development. It is popular with people affected by planning decisions and by parties with a more general interest in planning and development on the island. The right is held to be precious, and there is no support among politicians for removing it. Third party appeals are upheld by independent Inspectors again indicating their value in holding the planning service to account.
- 37 However, the extent of the third party rights is very wide, and the process is open to vexatious appeals that can lead to severe delays in the progress of development. There are important concerns that the appeals process leads to significant extra costs and gives a lot of power to objectors. The process depends upon the identification of 'interested parties' to a planning application. Whether someone has interested party status or not depends upon the extent to which they are affected by the application. The criteria for interested party status is published by the government and freely available for example on the government's website. They are quite widely drawn. We noted that interested party status was given to local authorities and also to government departments.
- 38 Once given the status of an interested party, a person's name is attached to the application, and they have the right of appeal against the planning decision whichever way it goes, i.e. whether the decision is to approve or deny the application. Appeals must be made within 21 days of the original planning decision, but they do not have to have any reasons stated in order for the formal process to go ahead. In fact the form that people fill in to make an appeal does not ask for reasons. Appeals go to a full hearing by the planning inspector unless all the parties agree to the appeal being decided through written submissions.
- 39 It seems to the review team that government departments are not only involved in shaping policy but are provided with a safety net of an appeal if their views are not taken on board by the

director or planning committee. We would question the necessity for this opportunity for public disagreement between departments of government. Policy differences should be resolved through agreement. It may be that the separation of planning from direct involvement in government policy making is the real issue. Rather than taking collective responsibility for shaping and delivering policy, planning is separated as a legislative process unfettered by prior involvement in policy. This quasi legal detachment may seem desirable in theory, but in reality creates an additional requirement for the third party safety net when the planning process is not accepted by another department.

- 40 We note below (paragraph 71) that local authorities' understanding of planning could be developed. If they did develop a thorough understanding, then their role as potential objectors/appellants on behalf of local communities would be enhanced. Such an enhanced role might be a corollary to reducing the rights of individuals as third parties to appeal if this was pursued. We were also told that residents often sought benefits from a developer in return for forgoing an appeal. Local authorities could do similarly for community benefits or to see improvements to development schemes. In effect this is a basic form of planning gain which is capable of legitimisation through local authorities. In many ways the third party right can encourage a developer to take earlier responsibility for mitigation. However, without structure this can lead to accusations of selling third party rights.
- 41 We believe that the planning service should give consideration to proposing and consulting upon some changes to the third party right of appeal. Some changes could include:
- Remove the right of appeal from other government departments. They should instead, if they have a particular interest, be involved at an early stage in pre-application discussions on developments, be involved in discussions around planning policies and the island strategy, and have the right to be consulted on applications that particularly require their input. Where there is a critical policy issue, government departments could be given a power of direction to hold a decision or to refuse an application.
 - Require appellants to state their reasons for the appeal.
 - Make a reasonable charge for making an appeal
 - Consider introducing a liability for an appellant to pay part of the costs of an appeal that fails
 - Introduce a presumption that an appeal will be dealt with by written submissions instead of by a hearing
 - Consider restrictions upon the right of appeal against the granting (as opposed to refusal) of planning permission
 - Consider removing the right of counter-appeal (ie where an application that has been granted is appealed and a counter-appeal is launched to sustain the grant)
- 42 Until 1 November 2005 planning applications were subject to a three stage process. Following the initial decision there was an opportunity for review, where any of the interested parties could request the planning committee to review a decision. There was still the opportunity for a dissatisfied party to appeal following the review. The review stage was removed in order to

streamline the process. So now there is only one avenue available to a dissatisfied party. The new process clearly has the potential to be shorter, having only two stages instead of three. But losing the review stage may have been perceived as losing the opportunity to discuss whether an appeal would be necessary. We did not see any analysis to show whether the new process was actually making things quicker in most cases.

43 Some other aspects of the planning process are not transparent, or at least not well understood by users of the service. For example:

- the basis for deciding which planning applications are dealt with by officers and which by the planning committee is not transparent. The chair of the committee meets the planning officers and goes through the list of current planning applications to decide which will be referred to the planning committee and which will be dealt with by officers under delegated powers. The decision is recorded, but without reasons attached. We were unable to find any clear guide for what goes to committee and what does not. Certainly members of the public and users of the service did not know what basis was used for such decisions.
- there is what appears to be a robust process for selecting new members for the planning committee. However the criteria for selection are not published (although available to anybody requesting information to apply for membership) and the process was not understood by users of the service.

44 The public now have more access to the proceedings of the planning committee. The change from private session to meeting in public is a welcome improvement. The government should now consider allowing the public to speak at planning committee meetings. We understand there is some nervousness about this, but it can work very well and we have provided some information in our appendix 2.

45 Planning decisions are widely perceived to be inconsistent. This point was put to us by users of the service, by representatives of other government departments and by some within the planning service. This was raised particularly in relation to officers' decisions. We have not established if this is actually the case, but we saw no evidence of robust procedures to ensure consistency between officers, or over time. This type of accusation is not uncommon and can be addressed by inspecting decisions to identify inconsistencies that may arise. This could be either through an internal audit or a panel of users and addressed by appropriate training.

46 An issue was raised about the way that registered properties were dealt with. The department is responsible for registering properties, making grants available for registered properties, and making planning decisions based upon registration status. There would be less potential for a conflict of interest if an independent body dealt with the registration of the properties. There is also a need to balance heritage issues against the need for development. We heard concerns within the government that this was not quite right. The role of Manx National Heritage should be reviewed to see if the balance is right, including whether they or another party such as the Department of Tourism and Leisure could be responsible for registering buildings.

47 It is important for the reputation of the planning service to resolve these issues of transparency. People we spoke to, being unclear about the processes, were suspicious that politicians, developers or 'wealthy individuals' were able to exercise influence over planning decisions. A greater transparency would remove the driver for these suspicions.

2.2 Accessibility

- 48 The department has recognised the need to improve the standards of service to customers and users. It has already been through a process of modernising the planning service, for example in making the planning committee meetings open to the public. And this peer-review in itself also shows a willingness to look at ways of improving.
- 49 We spoke to members of the public, to agents and developers, and to people in other government departments. People were very positive about the standard of advice that they received and how helpful staff were when they did manage to speak to them.
- 50 However people were very critical about how difficult it was to contact or get a response from planning officers. Several people told us about telephone calls not returned and e-mails not responded to. It is clear that planning officers have a heavy workload, and they will not welcome constant interruptions. But there needs to be more focus on good standards of customer service, and ways found to deal more effectively with customer enquiries. For example, a duty planning officer for each day who will be responsible for answering queries is a common solution to this type of problem. This is all the more important in the current situation, when the processing of planning applications is taking such a long time (see paragraph 78).
- 51 Further work also needs to be undertaken on the nature of the calls to the office. Many calls are enquiries about progress of an application which could be intercepted by the administration team acting as a one stop shop for information and advice. Several interviewees suggested that by embedding administrative support within teams pressure on staff would be eased. We would caution against this with such small teams as this may lead to single officers becoming a single point of failure within a process. (We suggest a single development control team – see paragraph 82). The web site could also become a useful means of providing information on application progress .
- 52 A range of information is available for the public and potential applicants. The planning reception area has easily available information about planning. The departmental website also has a range of useful information and guidance available online. The most recent planning committee agendas and minutes are also available online.
- 53 ICT and online information is well below the standards now generally available in the UK and is in need of further development. For example, although planning applications are now being scanned, it is not yet possible for the public to view planning applications online. Only recent planning committee minutes are online and delegated decisions are not accessible online. Plans are in place for some ICT developments, and the business case has been made. Resources are yet to be agreed. However we did not see any clear strategy for how e-planning would be developed. This will be an important improvement in the accessibility of the service, and relieving pressure on case officers.
- 54 A number of different groups that we spoke to were critical about the site notices used by the planning service to inform neighbours about developments. The service relies upon sending the notices to applicants to display but this does not seem to be reliable. It would be advisable to conduct an audit of site notice location to determine how useful this process is.

2.3 Responsiveness to users

- 55 The planning service does not currently publish a customer charter, setting out the standards of service that people should be able to expect. There are some proposals for a charter, but these have not yet been finalised. Within the various guidance documents and web pages about the application process, some timescales are stated. But these normally appear in terms such as "aim to" or "strive to" meet the timescale. We found little evidence that these indicative times, such as eight weeks to process the planning application or 10 days to issue a planning decision notice, were treated as hard deadlines. Service users were critical of the length of time these processes took. The service needs to establish a greater commitment to customer service, be clear about the standards of customer service it is going to deliver, and put into place the necessary processes to ensure that it meets them.
- 56 An important step in establishing and maintaining a customer charter is to establish what customers actually need or expect. The service has not conducted a user survey, and does not accurately collect, monitor and analyse customer complaints, to inform service development. Establishing a standing forum of regular users of the service, such as agents and developers, is an effective way of ensuring that the service meets their needs, and can provide a useful resource or knowledge bank for testing out new ideas and keeping up to date with developments on both sides.
- 57 Data on applications shows that planning applications are processed too slowly. Service users are very aware of it. There is an issue about how the process is managed, and we return to this in paragraph 90. However one problem is that applications may not meet the standards required. In order to deal with this there is guidance and a planning checklist which sets out what an application must include. However the terms in this checklist are not very precise, and there is room for a better definition of the requirements, such as the standards of plans required. The applicant must also take some responsibility for improving the speed of delivery by ensuring that an application is complete and all supporting information is included. A more thorough validation checklist and application advice would provide a basis for the service to insist on better quality submissions.
- 58 Although not entirely consistent, we did find a general willingness among the planning officers to resolve objections to planning applications through negotiation. This may lead to better outcomes. However pre-application discussions may be more effective. Where negotiation is necessary because of deficient information or the failure to undertake pre-application discussions this can introduce delays.
- 59 We did find some examples of a joined up approach between different governments services in relation to the planning applications. Consultation processes are established. However the planning service has not established the "development team" approach to coordinate different government input around developments, and giving developers a single point of contact. A difficulty in doing so is the current approach which focuses on small teams often one individual, and a reluctance to prioritise applications around scale and importance. (See paragraphs 82 and 90).
- 60 The service users that we spoke to perceived planning enforcement as ineffective and slow. The enforcement officer picks up and acts upon new complaints very quickly, and is clearly committed. However he gets very little recognition for his successes and we have some concerns about how his workload is managed (see paragraphs 79 and 80). There is a need for better communication about enforcement successes, and indeed for successes of the whole planning

service to be publicised, in order to give the public more confidence in the process. The public and service users are not clear about what to expect from enforcement. We would recommend an enforcement protocol that clearly sets out what is and what is not covered by planning enforcement, the various remedies available, relevant timescales, and standards that can be expected in relation to openness, proportionality and accountability.

3. Achieving outcomes effectively and sustainably

3.1 Efficient and effective processes

- 61 Managers and staff recognised the need to improve the processes in the planning service. They welcomed this review, and had many good ideas about how to improve the service.
- 62 The administrative support to the planning service is well organised and well motivated. They are keen to provide a good service to the public.
- 63 We have already mentioned that the input from the planning service into major government schemes is appreciated by other departments and has been effective in facilitating some important developments.
- 64 We believe that the expected timescale for delivering the four area plans is unrealistic. Even if it was possible it does mean a long time before the complete framework is in place. To try and manage this process it may be advisable to opt for fewer area plans; perhaps one single area plan rather than four. This could be supplemented by master planning in specific areas needing development, or in the two proposed national heritage areas.
- 65 We have already referred to the lack of an e-planning strategy. ICT has the potential not only to improve customer access but also to make business processes, including the processing of applications, more efficient.
- 66 Appeals (approximately 11 per cent of decisions are appealed) are adding significantly to the workload of the planning officers. We have already suggested that there is some scope for review of the appeals process. But it is also notable that many (about half of appeals that are decided) are successful. We did not see any detailed analysis of the reasons why appeals were successful or not. This needs to be done in order to ensure that the opportunities for appeal are reduced as far as possible. Both officers and members of the planning committee need to be aware of how well they are doing in this regard. We suggest a seminar between the Planning Inspectorate and officers and members to discuss why appeals are overturned.
- 67 Another significant contributor to the workload of the planning officers is the number of applications for minor works. The rules on what constitutes permitted development, and hence not requiring planning permission, are quite restrictive. Planning officers find themselves dealing with applications for replacement windows that within most UK planning authorities would be considered permitted development. Permitted development rights have been extended, but there is still scope to review these again with a view to extending them. If an extension of permitted development rights can not ultimately be agreed, the use of technical officers/trainees should be considered to manage this less complicated workload (see paragraph 82). Given the employment laws on the island and the difficulty in recruiting, this approach should be considered irrespective

of permitted development rights as it enables a recruitment and succession strategy to be managed by the service

3.2 Delivering through partnership working

- 68 The planning service collaborates well with some other government services. For example it has worked with the department's Directorate of Estates And Housing to agree what levels of affordable housing are needed, and had pre-application discussions around replacement of housing stock.
- 69 The planning service consults a wide range of other government services regularly about planning applications. Working relationships are constructive. When we spoke to representatives of a range of services they told us they appreciated the efforts of the planning service staff to resolve any issues of conflict between the inputs from different services. Protocols have been established with some services for how they will work together, and they were willing to see more protocols or service level agreements established. Effective protocols for cross departmental working, especially with the Department of Transport, the Department of Agriculture, Fisheries and Forestry and the Department of Tourism and Leisure, should mean that the right of appeal for government departments could be removed.
- 70 There is room for more effective collaborative working relationships. For example we heard that the planning policy officers had difficulty getting necessary information from other departments (see paragraph 21). Protocols may be required here too in order to ensure promised information is delivered, but there are also issues of data just not being collected. Different departments need to agree between themselves the priority they give to these arrangements. There could be scope for a coordinated information and data section supporting all government departments.
- 71 There is relatively little collaboration with local authorities. They have a role as consultees, and as interested parties who have rights of appeal. They need to develop a better understanding of planning. The planning service could provide training and development opportunities for local authority members.
- 72 The building control service could be also more of a key partner. The building control service is not currently involved in pre-application discussions about developments. Some of the consultations on planning applications, such as on drainage or telecommunications, could be also be handled by building control. There may be other opportunities for more collaboration, such as checking planning conditions on site inspections.

3.3 Sustainable stewardship

- 73 The island strategic plan focuses well on a sustainable island, preserving an environment that is valued by local people and permitting appropriate economic development. The strategic plan refers explicitly to sustainable development and sustainability is at the core of the plan's strategic aim. It also places an emphasis on design.
- 74 However there is a lack of clear guidance for developers. There is no guidance about the quality of design and architecture, or about what sustainable development outcomes are being sought, and how they could be delivered. Biodiversity for example is not treated consistently or rigorously, although the strategic plan does refer to the protection of wildlife and plants.

75 Much of current planning policy is out of date. Area plans are an essential part of the development plan and will provide more detailed requirements in particular areas. However they will be some time in coming, and we have already expressed some concerns about whether the timetable is deliverable. As it stands, one of the area plans is in development and another four due to be completed over a period of six to eight years. Until the new area plans are in place existing local plans, which are considerably out of date, remain in force.

4. People, performance and resource management

4.1 Capacity and use of resources

76 There is a recognition in senior management and the political leadership that the planning service is stretched. There is support for improving the service's capacity to manage a heavy workload and increasing complexity. In one area, building registration, the department is considering dealing with stretched capacity by outsourcing.

77 Management capacity is also stretched. The director has to spend much of his time on operational matters. The development control manager is enthusiastic and a capable planner, but despite having a good business and systems approach to developing the service is to a large extent "learning on the job". Management training and/or mentoring from another experienced manager could provide the basic support needed. There is a need for the managers to spend more time on management. This would mean finding ways of reducing the amount of time spent in the role of senior professional/technical person.

78 At present the workload in development control appears unsustainable, with individual planning officers having an annual caseload of over 400 cases. However the data to support effective resource management is not robust. We were provided with different figures for the number of outstanding (undecided) planning applications. The highest figure (a direct database report showed 1096 undecided cases) suggested that at the current rate of processing (averaging 176 cases per four week period) it would take 24 weeks to clear. A lower figure we were quoted (705 outstanding at 20 May) would still mean 16 weeks work. Monthly statistical reports showed that only about a quarter of cases were decided within the target eight weeks. The number of outstanding cases, and the practice of negotiating live cases, means that achieving the eight week target will always be moving just out of reach. There is an urgent need to look closely at the data and establish a clear understanding of the size of the problem. If the undecided cases figure is at this high level then urgent action should be taken to reduce it. Extra resources may be needed in order to do this.

79 Resources for enforcement are certainly limited –one individual does it all. Managers and other staff recognise that this situation is difficult, but little attention has been given to how the enforcement role can be more effectively supported. Support should include:

- Prioritising cases (see also below),
- Better IT support to eliminate current problems with identifying properties on the *Uniform* database,

- More coordinated support from development control, building control, administrative and legal teams,
- Looking at enforcement methods –learning from other enforcement service such as environmental health and trading standards.

See appendix one, paragraph 3 for a paper on good enforcement practice.

- 80 Resources are not being matched to priorities and so are not always used in the most effective way. Both in development control and enforcement, cases are dealt with in the order that they are received rather than being given any risk based priority. Enforcement is purely reactive – responding to complaints – with no proactive element.
- 81 Staff told us that following receipt and validation of a planning application no action is taken on it for a further three weeks – the consultation period. For processing to be complete within eight weeks this makes the effective processing time for an application five weeks. Planning officers took the view that there is ‘no point’ in doing anything during those three weeks. We do not agree, especially for the more straightforward applications. A critical performance activity during this period is the site visit. Officers can check that an application is valid and that notifications are correct. If a further period of consultation is required to correct a procedural error the error needs to be identified within 7-10 days. The failure to undertake site visits may compound this.
- 82 The role of planning officers and the way they work needs to change if the service is to become more efficient and effective. At present professionally qualified planning officers deal with all the planning applications whereas there is considerable scope for less qualified staff to undertake the more straightforward applications. There is certainly a willingness among support staff to undertake this role. There are only five planning officers and they work on an area basis rather than as a single team. This limits flexibility, and the structure has too many potential points of failure being dependent on key individuals. We heard that if an officer is away on leave or ill it is unlikely that their work will be picked up by someone else. There is a need for a more flexible approach. A single development control team would offer this.
- 83 We would also suggest looking at the way the offices are laid out. At present barriers of shelving and cabinets separate planning officers from support staff. This makes communications more difficult, and does not encourage a team ethos for support staff working together with planning officers. Changes to the working environment can make an impact when introduced alongside changes to working patterns.
- 84 The planning service places great reliance upon certain key individuals. We have already mentioned enforcement. Delegated powers rest in only the most senior officers; one officer deals with all the telecommunications applications; one officer deals with all the IT database reports. This makes the service vulnerable if those key individuals are missing. There is a need to manage the risk, to ensure that gaps can be covered and skills developed to provide a more flexible workforce as described above.
- 85 Overall there is a need for some detailed workforce planning to improve the match between the number and skills of staff and the work they need to do, and to plan for contingencies.
- 86 Some opportunities to attract additional resources appear to be overlooked. Planning fees do not approach covering the direct costs of the service and have not been increased for some time. While there is obviously an element of public service, it is not unreasonable to expect developers to pay a realistic fee, and there should at least be a presumption that fees will increase annually at

the current rate of inflation. On major developments, developers could be asked for contributions towards the costs of an accelerated service or coordination of services. We noted also that little advantage was being taken of 'planning gain' or developer contributions to infrastructure and community facilities.

- 87 We have already mentioned that 'e-planning' is an area for improvement (see paragraph 53). At present ICT is not being used most effectively as a resource to support planning staff. Data seems to be variable (as indicated by inconsistent figures for outstanding applications – see paragraph 78 above). Managers and other staff do not get the information and analysis they need in order to work effectively. There is a need for a better understanding and more rigorous use of the IT systems available.
- 88 There is a need to review operational procedures. There are likely to be opportunities to improve. Applications could be categorised; the number of automatic consultees reduced, and so on. We did not analyse processes. The department commissioned consultants to map their processes about two years ago. We could not see how this had improved them. The opportunity to look again at the processes should be taken as part of a wider revision of operations to improve performance management.

4.2 Performance Management

- 89 Some important features of performance management are in place. Staff have annual appraisals, and these seem to be consistently carried out. Managers also have regular team sessions with staff. Section heads have regular one to one sessions with the director.
- 90 However, there is an urgent need for radical improvement in performance management. It is not rigorous enough and there does not seem to be a culture of using data to ensure high standards of performance. We found it almost universally accepted that the planning process is too slow and while the public are told that the department aims to deal with most planning applications within eight weeks, this is not the level of service they are getting (see paragraph 78). But this has not led to any focus on improving speed of processing. Applications are not analysed and categorised by complexity or importance. There is no data about how long it takes to process different types of application. Workloads are not prioritised. Performance data is available, though limited, but we could not see what actions followed from the data that was produced. The eight week timescale is treated as a guideline rather than a 'hard' target and it is not really clear what level of performance is expected of staff.
- 91 The lack of performance management at an operational level is mirrored by a lack of focus on performance at departmental and government wide level. The department's service delivery plan contains a lot of planned activity but almost no information about what outcomes are to be achieved. The plan includes no key performance indicators for planning. There is a process for departmental reporting to the government as a whole, to monitor progress against the government's strategic objectives. However no report was required last year, and it is not clear exactly what data is needed to be reported this year. We are not clear how the department measures its own success during the year.
- 92 The demands of a heavy workload in development control mean that important elements of the process are being squeezed out. Planning officers told us that they often do not do site visits and are relying on personal knowledge of their area. This is clearly a risk. We did not see any evidence that this risk was being consciously analysed and managed.

4.3 Learning and supportive culture

- 93 Staff learning and development is encouraged and managed. Staff appraisals include personal development planning and training or other development activities are planned in accordance with individual personal development plans. Staff we spoke to said that they were happy with the amount of training they got. Planning officers liked the variation in work and that they were encouraged to take responsibility.
- 94 There seem to be plenty of opportunities for communication between managers and their staff . But staff felt that meetings, with the director for example, tended to be focused on top down briefings. There was little 'bottom up' process of being able to feed in ideas, discuss problems and learn. We suggest a rethink of how communications are managed. Information cascaded down the organisation can largely be done by some form of written or electronic briefings with more of the time in meetings given to discussion.
- 95 We found that staff engaged positively with our review. They had good ideas for how the service could be improved and were mostly positive about making changes.
- 96 Change in the planning service seems difficult. People are very busy and various external demands seem to inhibit progress. But there is a need for culture change. Managers must act and ensure that good ideas are followed through into actual improvements. They should foster an ethos of 'one organisation' and try to break down barriers between 'professional' and 'support' staff. They should encourage a culture focused on performance and quality. To do this, the most senior managers in the department should support middle managers more strongly and work on better communications (see above). We think there is a need for management development, including some understanding of managing change.
- 97 There is an opportunity to develop support staff to take on a technical or ultimately a professional role and to recruit trainees from the local population. This could be a cost effective means of addressing resource and skill gaps (see paragraph 82) as well as ensuring good succession planning.
- 98 As previously stated (paragraph 34) members of the planning committee do not get enough training and development to ensure that they are able to make well informed decisions, and to challenge the views of planning officers where necessary. We suggest that a rolling programme of training and development is put in place for planning committee members. Committee members and planning officers would also both benefit from learning together about the effect of their decisions. We suggest joint site visits to look at and discuss the quality of developments that they have approved in the past, and some analysis and discussion of successful appeals. Although the UK planning system is not identical, there are many similarities. Both officers and planning committee members could learn from some guided access to UK online planning materials

appendix one: response to the Poacher's Pocket report

Following the establishment of a Select Committee to review planning decisions at Poacher's Pocket a report was published and 6 recommendations made together with some other suggestions within the report. The Select Committee report asked us, as part of our review, to

consider these matters. We have included our observations in this appendix which also refers to observations in our main review report. The matters for our consideration are set out below (with report reference):

A) Is there adequate resourcing for enforcement activities to enable monitoring to be carried out? (4.4.2 (xi) p62)

B) A collection of recommendations all relating to the definition of which applications, and which planning conditions can/should be dealt with under delegated powers (starting 5.2.6 p70 – 72)

- Definition of minor and major conditions, and 'serious objections' for the purposes of deciding if approval that conditions are met should be decided by the planning committee (5.2.7)
- Criteria for chair of planning committee to determine which applications should be dealt with by Committee and which under delegated powers (5.3.2)

C) Whether interested parties should be permitted to speak at planning committee (5.4.2)

D) Whether the review stage should be re-introduced into the appeals process (5.4.3)

E) Consideration of whether it is appropriate or practical for other means of challenge to planning decisions to be devised in order to achieve redress where the planning department has been found to be at fault (6.4.3)

Resourcing an effective enforcement service

- 1 We have commented in the main report about the effectiveness of enforcement (see paragraphs 23, 60, 79 and 80). We concluded that enforcement was not managed well. The workload is not prioritised and is purely reactive to complaints. There is no proactive checking of conditions. If there are planning conditions that are particularly important for the community then they could be prioritised in the enforcement workload, and it would also be possible for building control to help with some on-site checking. To decide if more enforcement resources are needed, the planning service should decide priorities, analyse the enforcement caseload and time spent on it. At present the time data does not exist.
- 2 Within existing resources it is certainly possible for well managed enforcement to be more effective. It is a decision for the government whether more resources are merited to achieve extra output. Certainly, having one single enforcement officer without cover for absence is a risk that isn't being managed at present.
- 3 Planning Advisory Service (PAS) published in 2008 a good practice note on enforcement – 'A stitch in time'. (web link <http://www.pas.gov.uk/pas/aio/51733>). This document sets out the experience of a number of English local authorities in planning, resourcing and prioritising their enforcement services. Details of the authorities are included and direct contact could be made. The PAS website also hosts a discussion forum for enforcement staff which is well used. To use this support it is necessary to register on the website.
- 4 Another useful source of information is the National Association of Planning Enforcement (NAPE) which is hosted by RTPI. NAPE hold national events and also provide advice.

- 5 However, whilst there is much discussion about appropriate levels of resourcing there are no clear and simple guidelines to follow. 'A stitch in time' sets out those issues that you may want to consider when setting the resourcing for the service.

Definition of major/minor applications and delegated powers

- 6 We have considered delegations in the main report (paragraph 43). The main issue for us was one of transparency about which applications should go to the planning committee for decision.
- 7 We suggest that the most straightforward way of approaching this issue would be to review the current delegation arrangements to ensure that they are explicit and defensible. All local authorities in England have a scheme of delegation, the majority based around a model scheme of delegation dating back to 1997 that has been revised with legislative changes. Although often differing in detail the general approach is that the responsible officer (head of service/director or equivalent) has power to determine all applications delegated to them. The only applications being referred to committee being exceptions which are clearly defined. In some authorities the exceptions also include the ability for ward members to request that applications go to committee, but always on the proviso that there are *material planning reasons* to do so. The current Isle of Man process has a similar basis but the general criteria for exceptions are not spelled out. The introduction of such an approach in the Isle of Man would clarify the situation but also retain the flexibility desired.
- 8 The links to a number of different schemes of delegation for illustration follow:

<http://www.westoxon.gov.uk/files/download/4008-2285.pdf>
http://www.northwilts.gov.uk/planning_scheme_of_delegation.pdf
<http://www.bradford.gov.uk/NR/rdonlyres/AC046D36-3111-400B-9E27-E6181A36C897/0/Schemeofdelegation06.pdf>

The examples above are all slightly different and suggest a variety of approaches that could be taken.

- 9 In our experience it is not usual to divide conditions into different categories such as 'major' and 'minor' and in practice this may be difficult to define. The Poacher's Pocket report concerns one instance where it appears that the condition should have gone back to committee. But it ought to be possible for the director to decide if the matter is of sufficient importance to merit going back to the committee. It would also be possible for the chair of the committee to say if there are conditions that the committee has attached upon which the committee wishes to make the decision to discharge. We are not convinced that defining 'serious objections' or 'controversial' is helpful. If the director or chair of planning think a matter might be, then it is.

Speaking at planning committee

- 10 We have commented briefly upon this in our report (paragraph 44 and see appendix two). In our view public speaking at committee is a valuable contribution to openness. Restricting it to 'interested parties' would reflect their current status as possible appellants. The opportunity to speak at the planning committee meeting may give an opportunity for an airing of views that otherwise may only really find outlet through the appeals process. It is usual to control the

right to speak quite tightly. We would recommend that planning committee members try and take the opportunity to attend UK planning committee meetings where it is allowed. Many councils do this, with slightly different rules. Bertie Mackay would be happy to invite the planning committee to see public speaking at his own authority, Warwick District Council. Other examples suggested by the Planning Advisory Service are London Borough of Lewisham, East Hampshire District Council or Test Valley Borough Council.

Review stage at appeals

- 11 We have commented upon this briefly in our report (paragraph 42). We do not believe there is evidence either way as to whether the process was improved by removing this stage. It is not a stage in UK appeals. Introducing a more general right to speak at open committee would, in our view, cover part of the purpose of this. There is nothing to prevent developers and objectors trying to resolve their differences by negotiation, and we understand this often happens. We believe that the various changes we have suggested, if implemented, would eliminate the need for a return to the review stage.

Redress following challenge to planning decisions

- 12 In England there are no provisions within the planning legislation to provide for redress in situations where the process has been found to be faulty. However, the Local Government Ombudsman (LGO) provides a means for the identification and subsequent compensation if services are found faulty. This is termed as maladministration and whilst the compensation paid is often not significant there is an impact on reputation for the authority concerned where maladministration is found. The procedure does not involve expensive hearings.
- 13 The web address for the LGO is: <http://www.lgo.org.uk>. Whilst the LGO deals with complaints across all local government services it would be possible to design a similar approach simply to address the planning situation. Clearly the introduction of such an approach would need to be considered in the context of what other existing systems on the Isle of Man may work in similar ways.

appendix two – planning committee changes

Following on from the observations in the main report, we have some suggestions for improvements in the way that the planning committee operates. A particular focus is to make it a more accessible and understood by the public, reflecting its status as a public, quasi-judicial forum. We have set these out below.

1 Improve the environment for the committee meeting:

- introduce a public address system. At present the committee meetings have an informal atmosphere and proceedings are also difficult to hear for the audience.
- incorporate a hearing loop system.
- consider how the room layout could be best arranged from the public point of view, having regard also to the items which follow
- enable the public to see better what is being discussed, either by using a larger screen or by officers using a pointer. At present officers tend to turn their back on the audience and cover the view of the screen.
- have name plates for each of the committee members and officers (including their job title) present, facing the audience. Where officers are called for specific items, they should introduce themselves by name and job title.
- have information on the screen at the beginning of the meeting, saying "welcome" etc

2 Improve the documentation for the committee:

- put members' names on the agenda coversheet
- include page numbers on agendas and include an index
- put items that are connected, adjacent on the agenda
- have plans and drawings available either with the agendas/reports or otherwise in the committee room
- for each item on the agenda, state at the beginning why it has been brought to the committee
- provide information for the public about how the committee meetings will work. For example the chair introduces the item, the planning officer sets out key issues and recommendations, members ask questions and debate, a decision is made by a vote of the committee members. Include under what circumstances site visits will be undertaken. This information could be on the screen, introduced by the chair at the beginning of the meeting, and printed on a separate sheet for attendees.

3 Improve the operation of the committee meeting:

- members and officers should remember that this is a formal public meeting and should treat it in that way. They should make sure that their comments are made clearly in order to be heard by the audience. They should take account of the number of public present and make adjustments in their speaking volume accordingly. Each item should follow the same structure as described above
- the answers to questions of fact should be usually be resolved at the members' briefing prior to the committee meeting. Where members ask questions of fact, officers should provide evidence rather than unsupported opinion. If they do not have evidence at the time, they should say so.
- introduce public speaking at committee. We recommend some research into the way public speaking is operated in the UK and adopting good practice.

4 other factors:

- publish the selection criteria for membership of the planning committee
- publish the criteria upon which decisions are made to take planning applications to the planning committee rather than allowing decisions by planning officers under delegated powers
- provide a programme of training and development for planning committee members, including some joint training with planning officers on issues such as reviewing decisions against quality of development, and particularly design