

8. REVIEW OF MSDC's DESIGN REVIEW PANEL'S TERMS OF REFERENCE

REPORT OF: DIVISIONAL LEADER FOR PLANNING AND ECONOMY
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Wards Affected: All
Key Decision: Yes
Report to: Scrutiny Committee for Housing and Planning
Date of meeting: 17th January 2018

Purpose of Report

1. The purpose of this report is to ask Members to consider the proposed amendments to the Design Review Panel's (the Panel) Terms of Reference (ToR) set out in Appendix 1 following an assessment of the current practice in line with Royal Institute of British Architect's (RIBA) publication "Design Review Principles and Practice".
2. Subject to the above consideration, the Committee is asked to recommend that the Cabinet Member for Housing and Planning agree the revised Panel ToR.

Summary

3. This report outlines:
 - (a) The background to the establishment of the Panel and the need for it;
 - (b) The national guidance on Design Review Panels;
 - (c) The overall aims of MSDC's Panel; and
 - (d) The proposed key amendments to MSDC's Panel's ToR.

For Member consideration.

Recommendation

4. **That the Scrutiny Committee recommends to the Cabinet Member for Housing and Planning that he agrees the revised Design Review Panel's Terms of Reference**
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Background

5. The Government attaches great importance to the design of the built environment and the National Planning Policy Framework (NPPF) considers that good design is a key aspect of sustainable development and should contribute to making places better for people. As such the NPPF states that planning permission should be refused for development of poor design that fails to take the opportunities to improve the character and quality of an area. In order to ensure good design the NPPF continues that "*local planning authorities should have local design review arrangements in place to provide*

assessment and support....In assessing applications, local planning authorities should have regard to the recommendations from the design review panel.”

6. MSDC's Panel (originally called the Architects Panel) has been running since 2003. Its aim is to raise the quality of design and the built environment in Mid Sussex by providing applicants with design advice on their development proposals. The Panel Members comprise local architects. In 2017 the Panel considered 35 proposals and the comments on the proposals have positively contributed in bringing about design improvements and in helping to resist schemes that are not of sufficient quality.

Issues

7. In 2016/17 a partial review of the Panel's ToR was carried out and this resulted in: increasing the annual number of Panel meetings from six to eight per year to ensure efficiency and capacity; and Panel Members have been divided into two panel groups of six members that meet alternately every six or seven weeks. This change involved a reduction in the number of Panel Members attending each meeting from 8-9 members down to 5-6 members and is consequently now in line with the RIBA guidance.
8. It is good practice to comprehensively review the ToR regularly to ensure that they are robust. This review has been done in line with the national guidance set out in the Royal Institute of British Architect's (RIBA) publication "Design Review Principles and Practice" and in particular follows RIBA's ten core principles set out below:
 - Independent – The proposed changes ensure that design reviews are conducted by people who are unconnected with the scheme's promoters and decision makers. A robust protocol is proposed to ensure that conflicts of interest do not apply.
 - Expert – The ToR currently requires design reviews to be carried out by suitably trained people who are experienced in design and know how to criticise constructively. Panel membership requires a suitable professional qualification or several years of relevant experience of working in the built environment. The proposed changes will ensure that ongoing scrutiny of members will be provided by annually reviewing and ratifying the performance of panel members. Currently new members are subject to an induction session in line with RIBA guidance. The changes proposed will require new Chairs to also attend an induction session.
 - Multidisciplinary – The RIBA guidance suggests that it is beneficial to have a range of specialisms. Currently the Panel has architects with specialisms in sustainability, urban design and conservation. The proposed changes provide for a more multi-disciplinary Panel by adding landscape expertise to the existing list of architectural specialisms. However, in order to avoid the potential for conflicting specialist advice, which the Council currently secures from other professional experts, it is not proposed to invite other specialists to join the panel. To ensure that Panel Members are fully aware of the Council's specialists views, they will now be summarised at the beginning of each item along with the planning framework.
 - Accountable – No changes are proposed to the ToR in respect of this principle as it currently provides for the attendance of District Ward Councillors at the meetings to give them early awareness of schemes and help them understand the Panel's views.

Councillors can ask questions when the presenters are in the room, and are asked for their local knowledge to clarify the Panel's comments during the subsequent debate. However, Councillors will not otherwise contribute to the Panel's debate and deliberations after the presenters have left the room.

- Transparent – The ToR is currently available to view on the Council's website setting out the governance processes. The proposed changes make clear the funding arrangements (a fee of £240 for a major scheme, and £120 for a minor scheme is charged to applicants for the consideration of their schemes by the Panel).
 - Proportionate – Only schemes that are considered significant will warrant the Panel's consideration. Currently these are either large schemes or smaller schemes which are particularly prominent or sensitive or if there are special architectural considerations. To help ensure there is more capacity, the threshold of consideration for residential schemes is proposed to be raised from 50 to 100 dwellings. It is also proposed that mixed use schemes with a significant residential component are included for consideration.
 - Timely - In line with the NPPF, the ToR currently encourages schemes to be submitted early-on at the pre-application stage of the planning process; the ToR changes make this clearer. To help improve the efficiency and speed of the planning process the proposed changes now state that schemes will not normally be considered by the Panel more than twice (the exception may be large complex mixed use schemes) with the first submission at pre-application stage, and the second submission at the application stage.
 - Advisory – The ToR currently make clear the advisory nature of the Panel, and for the sake of clarity, it will continue to provide an overall assessment of the scheme in terms of their support or objection to schemes.
 - Objective – The attendance of ward councillors at meetings should allow the views and sensitivities of the surrounding communities to be taken into account. In addition the proposed changes include a list of considerations to help ensure that appraisals are reasoned, objective and comprehensive. This will be aided by the provision of site visits on sensitive sites.
 - Accessible – No changes are proposed in respect of this principle; the ToR currently states that a Council officer (normally the Urban Designer) is responsible for recording the Panel's comments and they are agreed by the Chair and normally circulated to all attendees within 3 working days. Where they relate to a planning application, the notes will continue to be incorporated with the other application documents on the Council's website and in the case officer's report.
9. Although RIBA suggests the desirability for extended reviews of some schemes, MSDC's panel does not provide for half or whole day scrutiny as the additional costs would generate a significantly larger fee for applicants and a greater time commitment for local panel members who are unpaid. The updated ToR has nevertheless sought to give each scheme more time to allow for fuller consideration. This will be assisted through the following changes:
- A reduction in the number of schemes coming before the Panel facilitated by: (a) limiting schemes to two visits to the Panel; (b) increasing the minimum qualifying

threshold for residential developments from 50 to 100 units (not including prominent or sensitive schemes).

- The provision of site visits where it is felt necessary;
- Requiring a more comprehensive set of drawings from the applicant that should allow a clearer understanding of the scheme.

10. It should be noted that the RIBA publication is guidance, the principles are not absolute requirements, and local authorities have some flexibility in setting their ToR. Whilst not all RIBA suggestions have been taken on board, the comprehensive review proposes changes to the ToR which will ensure RIBA objectives are met.

11. The review has been subject to consultation with Panel Members and developers who have provided useful comments on how the Panel can be improved so that it can help developers through the planning process.

Financial Implications

12. There are no direct financial implications to the Council.

Risk Management Implications

13. If the revised ToR is not agreed, it could potentially undermine the authority of the Panel particularly in terms of the need for clear procedures for dealing with conflict of interests.

Equality and Customer Service Implications

14. This report has no direct equality and customer service implications.

Other Material Implications

15. There are no other material implications.

Appendix 1: Design Review Panel's Revised Terms of Reference