
Economic & City Development Overview & Scrutiny Committee

14 July 2009

Feasibility Report - Planning Conditions: Their implementation, completion and difficulties relating to adoption of new estates

Summary

1. This report asks Members to consider a scrutiny topic registered by Councillor Simpson-Laing to look at the implementation of planning conditions, completion and difficulties related to the adoption of new estates. A copy of the topic registration form is attached at Annex A to this report.

Criteria

2. Councillor Simpson-Laing believes that this topic fits with the following eligibility criteria as set out in the topic registration form:
 - Public Interest (i.e. in terms of both proposals being in the public interest and resident perceptions)
 - Under Performance/Service Dissatisfaction
 - In keeping with corporate priorities
3. Councillor Simpson-Laing has made the following additional comments on the topic registration form in support of the selected eligibility criteria:

Public Interest – Residents on new estates feel dissatisfied when their estates are neither built to plan, completed or adopted by the Council

Under Performance/Service Dissatisfaction – Residents feel that because of non-adoption of their estates they are not receiving services for which they pay, such as street cleaning. There are also safety concerns when conditions have not been completed before habitation of properties.

4. The Assistant Director (Planning & Sustainable Development), the Head of Development Control and a representative from the City Development & Transport Group within the Council are satisfied that the topic meets the eligibility criteria set out above.

Consultation

5. The Assistant Director (Planning & Sustainable Development) and the Head of Development Control were consulted on the topic registration form and their comments are attached at Annex B to this report.
6. Representatives from the City Development & Transport Group of the Council were also consulted on the topic registration form and their comments are attached at Annex C to this report.
7. The Executive Member for City Strategy has no objection to this and has already asked for a review of outstanding adoptions and that information, which is being gathered by officers, may provide some background for this topic.
8. Chairs of all three Planning Committees were consulted on the topic registration form and the following responses were received:

West & City Centre Planning Committee- I am happy with the proposed topic and believe that Councillor Simpson-Laing has captured all the salient features requiring scrutiny. There is indeed a great deal of merit in proceeding with this topic.

East Area Planning Committee - I feel that much of this was covered in the Planning Enforcement Scrutiny topic that is just finishing and therefore there would be a large amount of duplication. S106 agreements etc were discussed and new protocols recommended.

Planning Committee – The topic seems to be a bit of a mishmash. Highway adoption should be nothing more than roads being built to standard and then going through an administrative process. Then, they will be swept. If conditions are not being met, there is an enforcement process - and we have just completed a scrutiny review on this topic. In view of the above I cannot see the benefit of progressing this topic.

Analysis

9. The information above and that contained within the annexes raises several concerns regarding progressing this topic to review. Both the Development Control Section and the City Development & Transport Group highlight resource issues due to ongoing work within their departments. The recently completed Planning Enforcement Ad Hoc Scrutiny Review has impacted on the resources of Development Control and they are also undertaking an internal review of their Planning Enforcement Service.
10. Officers within the Development Control Department have raised concerns regarding duplication of work (ongoing work and work undertaken as part of the Planning Enforcement Ad Hoc Scrutiny Review) and feel that many of the issues within the topic registration form could be answered by way of briefing notes and/or training sessions. Representatives from the City Development &

Transport Group have also suggested training sessions and/or briefing notes as an option.

11. There are already three dates set aside in September for specific planning training and both the Head of Development Control and the representative from the City Development & Transport Group are willing to incorporate into these sessions, concerns raised within this topic should Members be minded to do so.
12. During informal telephone discussions between the Scrutiny Officer and the various Officers who have provided responses for this report, concerns were raised regarding whether the emphasis of this topic was on highways or planning conditions.
13. Should Members choose to go ahead with this review they may wish to consider a tighter remit with clarity of emphasis on either highways or planning conditions; alternatively the topic could be split into Part A and Part B. They may also wish to look at how this review would be prioritised within their work plan. Members may wish to decide their full work programme before slotting any review work in at an appropriate point.
14. The Committee has the option to form small task groups to undertake reviews and should Members choose to proceed with the review they may wish to form a smaller task group who would be able to work more informally. Any task group would periodically report back their findings to formal meetings of the Economic & City Development Overview and Scrutiny Committee and would be fully supported by the Scrutiny Officer.

Conduct of Review

15. Should Members choose to proceed with this review Councillor Simpson-Laing has suggested that the Committee look at:
 - The legal status of conditions
 - The management of conditions, including their signing off at each stage before further work is allowed to continue
 - The Council's monitoring of developments, including the monitoring undertaken by Building Control and the powers they have to stop development
 - The ability of the Council to change planning conditions without Members knowledge
 - The legality of developers not undertaking conditions
 - The ability of the Council to ensure developers complete developments to enable adoption
16. If the review were to go ahead then Members may wish to consider consulting the following:
 - Relevant Officers from City of York Council (Legal Services, Development Control, Building Control, City Development & Transport Group)
 - Representatives of developers
 - The House Builder's Federation

17. Councillor Simpson-Laing has also suggested that working practices at CYC would need to be investigated along with Best Practice at other Local Authorities.

18. It is envisaged that this work would take approximately 6 months.

Implications

19. **Financial** – There is a small amount of funding available within the scrutiny budget to carry out reviews. There are no other financial implications associated with this report however; implications may arise should the review be progressed.

20. **Human Resources** – Representatives from both Development Control and City Development & Transport Group have highlighted potential resource issues and these are set out in the body of this report.

21. **Legal** – There are no direct legal implications associated with this particular review but it is very likely that implications could arise should the topic be progressed.

22. There are no known equalities, property, crime & disorder or other implications associated with the recommendations in this report.

Risk Management

23. In compliance with the Council's risk management strategy, there are no known risks associated with the recommendations in this report.

Recommendations

24. Based on the evidence presented within this report Members are not advised to proceed with this topic. As an alternative, Members may wish to consider a training session (which could be amalgamated with those already set for September) and/or briefing notes to gather further insight into the information requested (paragraphs 11 and 12 of this report refer).

REASON: In order not to duplicate work already being undertaken

Contact Details

Author:

Tracy Wallis
Scrutiny Officer
Scrutiny Services
Tel: 01904 551714.

Chief Officer Responsible for the report:

Quentin Baker
Head of Civic, Legal & Democratic Services
Tel: 01904 551004

Feasibility Study
Approved



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Specialist Implications Officer(s) None

Wards Affected:

All



For further information please contact the author of the report

Background Papers:

None

Annexes

- Annex A** Topic Registration Form
- Annex B** Comments from Development Control
- Annex C** Comments from Highways Section