

SCRUTINY COMMISSION: 15 JANUARY 2019

REPORT OF THE CHIEF EXECUTIVE

THE DEVELOPMENT OF A UNITARY STRUCTURE FOR LOCAL GOVERNMENT IN LEICESTERSHIRE

OPTIONS APPRAISAL – AREA BOARDS AND PLANNING GOVERNANCE ARRANGEMENTS

Purpose

1. The purpose of this note is to provide detailed information on the Area Board structures and planning governance arrangements established by Wiltshire Council and Durham County Council for consideration by the Scrutiny Commission.

Background

2. The Scrutiny Commissioners requested that officers produce a table comparing the arrangements for Area Boards and planning governance in Wiltshire and Durham. It is recognised that these are only two of a number of governance models; however, the Commission has already received presentations from the Leaders of both councils which included information on how the arrangements work. The information provided should build on that knowledge and enable the Scrutiny Commission to consider the benefits to each structure in greater detail.
3. Experience from both Wiltshire Council and Durham County Council suggests that any model for Area Boards should be co-designed with the local community as well as being subject to public consultation. The final decision on the kind of structure to be adopted would rest with the new Council, should the proposal for a unitary structure of local government for Leicestershire be taken forward.
4. The information provided in this report does not explore the role of Parish and Town Councils as this work is subject to separate co-design with a steering group formed from Parish and Town Council members.
5. There is a brief commentary at the end of each section. This draws out some of the main points to consider.

Area Boards

	Wiltshire Area Boards	Durham Area Action Partnerships
Purpose	<p>To promote the development of stronger and more resilient communities across Wiltshire's community areas through:-</p> <ul style="list-style-type: none"> • Efficient, transparent and accountable decision making; • Effective collaboration with public, voluntary and private sector partners locally to meet the aspirations of local people; • Shaping the delivery of local services; • Addressing local issues; • Building community leadership and local engagement. 	<p>To give people in County Durham a greater choice and voice in local affairs. The partnerships allow people to have a say on services, and give organisations the chance to speak directly with local communities. By working in partnership we help ensure that the services of a range of organisations - including the county and town and parish councils, police, fire, health, and voluntary organisations - are directed to meet the needs of local communities and focus their actions and spending on issues important to these local communities.</p>
Functions	<p>Each area board will have the following functions in conjunction with their local area:</p> <ol style="list-style-type: none"> (i) To provide a focus for community leadership, local influence and delegated decision-making, through the democratic mandate of elected councillors; (ii) To influence the allocation of resources and delivery of public services in the community area in order to pursue local priorities and issues; (iii) To bring together key service providers and the local community into a coherent cycle, linked to budget 	<p>Each of the 14 AAPs is made up of an area forum and an area board to identify and tackle issues in local communities. AAPs contribute to the county council's and County Durham Partnership's vision. The AAPs work around the four themes of:</p> <ul style="list-style-type: none"> • Engagement: working with communities to build a dialogue with communities and encourage local people to be involved in planning local services. • Empowerment: giving people the power to work in partnership with organisations and help them

	Wiltshire Area Boards	Durham Area Action Partnerships
	<p>and decision-making processes;</p> <p>(iv) To consider current conditions and future priorities through an annual state of the community area debate;</p> <p>(v) To publish a local area assessment setting out the agreed priorities for action arising from the state of the community area debate;</p> <p>(vi) To determine budget priorities and spend within the revenue budget allocated by the Cabinet;</p> <p>(vii) To agree a framework for consultations carried out in the community area on behalf of the Council;</p> <p>(viii) To provide feedback on major statutory consultations on behalf of the community area;</p> <p>(ix) To allocate core funding for the operation of the community area partnership and project funding for identified community priorities;</p> <p>(x) To develop participatory budgeting processes and to be instrumental in supporting and developing funding applications to external bodies and funding streams;</p> <p>(xi) To provide excellent two-way communications for the community area about public service provision and to the Council and Cabinet about the implementation and effectiveness of policies;</p> <p>(xii) To publish and maintain a forward plan of</p>	<p>combine their efforts to improve local services.</p> <ul style="list-style-type: none"> • Local action: developing an action plan for the AAP, and resolving issues by using AAP funding and the resources of the county council and partner organisations. • Performance: monitoring and improving public service performance and supporting the AAP and County Durham Partnership to achieve their aims.

	Wiltshire Area Boards	Durham Area Action Partnerships
	<p>forthcoming agenda items to give councillors, the public, parishes and the media adequate notice of the issues that are to be considered;</p> <p>(xiii) To consider issues referred to the area board by town and parish councils, partners and the public;</p> <p>(xiv) To establish task and finish groups to examine specific issues.</p>	
Number	<p>18. Average population per Area Board is 20,130.</p> <p>The building blocks for the Area Boards are electoral divisions and parishes.</p>	<p>14. Average population per AAP is 36,486.</p> <p>The building blocks for the AAPs are electoral divisions and parishes.</p>
Formally constituted?	<p>Yes - the area boards are appointed by the Council under section 102 of the Local Government Act 1972 and are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive.</p>	<p>No.</p>
Composition	<p>Each area board's membership shall comprise of the elected unitary councillors representing the electoral divisions covered by the area board.</p> <ul style="list-style-type: none"> • The following representatives will also participate in area boards: • An elected representative from each town or parish council within the area covered by the area board as shown in schedule 1; 	<p>Each of the 14 AAPs is made up of an area forum and an area board to identify and tackle issues in local communities.</p> <ul style="list-style-type: none"> • An area forum: for all-comers to meet twice a year to consider issues such as agreeing priorities for the area and reviewing progress of the partnership board. • An area board: 21 members (elected) who will

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	<ul style="list-style-type: none"> • Representatives from the following groups and organisations: <ul style="list-style-type: none"> ○ Local neighbourhood policing team (inspector with a sergeant as deputy); ○ Clinical Commissioning Group; ○ Housing Association or housing officer; ○ Community Area Partnership and/or other groups ○ representative of the local community; ○ Wiltshire Fire and Rescue Service; ○ Local Youth Network; ○ Campus Operation Group (or equivalent). • Other participants from the local community including (but not limited to) any of the following groups: the military, users groups such as the Wiltshire and Swindon User Group, Healthwatch, partnership boards, minority ethnic groups, older people's groups, colleges, school councils, governors, local businesses, Chamber of Commerce, cultural organisations, Area of Outstanding Natural Beauty groups. <p>A member of Wiltshire Council's Cabinet will attend upon request those area boards which do not have a Cabinet</p>	<p>meet at least six times a year to discuss how the AAP is progressing against its action plan, manage spending and work with local partners around service issues. Each board is made up of elected members from organisations such as the county council, town and parish councils, and health, police and fire brigade, community and voluntary groups, and the public.</p> <p>The 21 members of the Area Boards are broken down into seven members of the public and seven partner representatives, six county councillors and one parish council representative.</p>

	Wiltshire Area Boards	Durham Area Action Partnerships
	<p>member as a standing member of the area board. Cabinet members attending the area board will not have voting rights. For the avoidance of doubt a Cabinet member is entitled to vote as a standing member of the area board in which their electoral division is located.</p>	
Budget	<p>There is general total capital grant of £0.8 million to be distributed to the eighteen community area boards. Every £1 allocated secures £5 of investment in local communities and in the last four years (Business Plan period) £8 million was awarded supporting 2,645 community based projects.</p> <p>In addition, local grants for Highways (CATG) and youth activities will also be allocated. The CATG amount allocated is dependent on the geographical size and population for each community area with the typical allocation in 2016-17 approximately £14,000 per group.</p> <p>This investment has allowed the council to progress significant investment locally in infrastructure, and to develop more locally owned and innovative delivery of services such as youth activities. The new approach to delivering locally based youth activities allowed significant savings to be made in previous years and in 2016/17 further improvements were delivered. More than 15,000 young people are now accessing activities, compared to 4,500 under previous arrangements.</p>	<p>Each AAP puts plans and actions in place to deliver services where they are needed most and has a budget of £120,000 for local projects and investments, as well as an administration budget for staffing.</p>
Individual Councillor	<p>To help Councillors tackle local issues and priorities, they can make applications for funding to the Area Board for</p>	<p>Neighbourhood budget is a £20,000 allocation that each of the local County Councillors receives to support local</p>

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Budget	approval.	organisations. Organisations usually approach the councillors with a request and the project application is then developed with the support of the AAP team. The use of the budget is reported in the Annual Report of each AAP.
Delegated powers	<p>Decisions involving the discharge of executive functions will be made by the local area board, provided the decision does not:</p> <ul style="list-style-type: none"> • Have a significant impact outside of the area concerned; • Have a significant impact on the overall resources of the Council; • Contradict any policy or service standard set by the Council; • Involve the taking of regulatory or quasi-judicial decisions; • Relate to the exercise of functions in respect of any particular person, including any individual member of staff. <p>Area boards must operate within the Council's Budget and Policy Framework.</p> <p>Each area board will receive delegated funding as determined from time to time by the Leader.</p> <p>Area boards will allocate their delegated funds in</p>	<p>Delegation to the Head of Partnerships and Community Engagement to authorise the expenditure of Neighbourhood and Area budgets approved by the Council in consultation with the relevant Area Action Partnership Board and the appropriate local Member(s).</p>

	Wiltshire Area Boards	Durham Area Action Partnerships
	<p>accordance with any rules and guidance issued by the Leader.</p> <p>Area Boards may exercise the following executive functions within their geographical areas of responsibility:</p> <ul style="list-style-type: none"> (i) The approval of applications from community and voluntary groups and town and parish councils for grant funding through the Area Boards grant scheme. (ii) The approval of applications for the disposal of non-strategic assets with a value below £250,000 provided that each application is supported by robust and appropriate business cases that benefit local communities in accordance with the council's Community Asset Transfer Policy. 	
Voting Arrangements	<p>Only the elected unitary councillors on the area board may vote on matters involving the discharge of executive functions within the scope of the delegation to area boards.</p> <p>Voting is by a majority of the voting members present. The chair of the area board has the casting vote.</p> <p>Area boards will seek to reach decisions by consensus, where possible involving all participants. The area board may decide to test opinion by a show of hands before the unitary councillors make their decision.</p>	<p>All 21 members are allowed to vote on decisions regarding how the area budget is spent.</p> <p>The Head of Partnerships and Community Engagement will have regard to the 'decision' of the AAP and exercise delegated powers to implement the 'decision'.</p>

	Wiltshire Area Boards	Durham Area Action Partnerships
Consultative Role	<p>Area boards will be consulted on the development of strategic policies to make sure that local priorities and concerns are taken into account. The area boards will also be consulted where significant changes, reductions or closures of a service are planned in their area.</p> <p>Any key decision or policy proposal of the Council that has, or is likely to have, a significant impact in the local area will be discussed with the area board.</p>	<p>The centrally managed consultation and engagement team is divided into three clusters representing the fourteen AAPs. The AAPs can be used as a consultee body for services wishing to consult in a qualitative format. The team acts as a conduit providing services with access to AAPs and AAPs with access to the Council.</p> <p>Each AAP has a forum database of 100+ local individuals, groups and agencies which services can access via the appropriate AAP teams.</p> <p>The AAPs are used primarily for strategic consultation exercises (e.g. Budget consultation) however more local area based initiatives and consultations may be relevant to individual or clusters of AAP's. AAP officers will advise accordingly.</p>
Relationship to Planning	<p>Area boards must not be directly involved in deciding planning applications. However, they should be involved in the following in relation to their area:</p> <ul style="list-style-type: none"> • Consideration of the benefits of larger developments; • Pre-application discussions relating to major developments; • Consideration of planning briefs; • Development of Local Development Framework 	<p>Area Action Partnerships are not involved in deciding planning matters.</p> <p>See the second part of this report for details of how the planning function operates.</p>

	Wiltshire Area Boards	Durham Area Action Partnerships
	policies.	
Substitution arrangements	No substitutes are permitted for unitary councillors on area boards.	Substitute Members may attend meetings in that capacity only provided, in the case of area committees, that the substitution does not alter the balance on that committee between Members from the area and Members from the rest of the County.
Example Agenda	<ol style="list-style-type: none"> 1. Welcome and Introductions 2. Apologies for Absence 3. Minutes 4. Declarations of Interest 5. Chairman's Announcements 6. Updates from Partners and Town/Parish Councils 7. Local Youth Network Update and Youth Activities Grant Applications) 8. Update from the Community Area Transport Group (CATG) 9. A303 Legacy Group update from Highways England. 10. Health and Wellbeing Group Update 	<ol style="list-style-type: none"> 1. Introduction and Apologies 2. Durham History Centre Consultation – Durham County Council 3. Agreement of minutes from previous meeting – 9 November 2017 – Matters Arising 4. Local Neighbourhood Issues <ol style="list-style-type: none"> a. Items from the public / community submitted to the Coordinator prior to the meeting b. PACT Report c. Neighbourhood Budget Applications and Neighbourhood Budget Report 5. Priorities and Action Plans <ol style="list-style-type: none"> a. Quarterly Budget Monitoring

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	<p>11. Community Area Grants</p> <p>12. Urgent items</p> <p>13. Future Meeting Dates, Evaluation and Close</p>	<p>b. Upcoming Funding Opportunities</p> <p>c. Action Plan Update and project proposals</p> <p>d. Ongoing Projects – Updates</p> <p>6. Countywide Partners</p> <p>a. Care Navigation – DDES Clinical Commissioning Group</p> <p>7. Date of Next Meeting.</p>
Regularity of meetings	<p>Meetings take place locally once every 8 weeks and between meetings task groups consisting of local people, Wiltshire Council staff and councillors tackle local issues and find solutions to take forward at the next area board.</p> <p>Meetings take place in various locations in the community, such as village halls and community centres. The location changes from meeting to meeting.</p>	<p>The Area Boards meet at least 6 times a year and the Area Forums meet at least twice a year.</p> <p>Meetings take place in various locations in the community, such as village halls and community centres. The location usually changes from meeting to meeting.</p>
Officer support	<p>An Associate Director from Wiltshire Council will be assigned to an area board and Corporate Directors will attend as and when required. Their role is to advise and assist the area board.</p> <p>Local Community Engagement Managers (CEM's) facilitate and enable closer working between the</p>	<p>Each Area Action Partnership is supported by an Area Co-ordinator, Community Development Project Officer and a Support Officer</p>

	Wiltshire Area Boards	Durham Area Action Partnerships
	council, the community and area boards.	
Engagement with full Council	None.	Area Action Partnerships may ask questions of Members of the Executive at ordinary meetings of the Council.

Commentary

6. Following this desktop exercise, it can be seen that there are lots of similarities between the arrangements put in place in Wiltshire and County Durham. Both systems are well set up and seem to operate well in their areas.
7. The main difference is that Wiltshire's Area Boards are formally constituted whereas Durham's Area Action Partnerships are not. This means that executive powers can be delegated to Wiltshire's Area Boards, including decisions relating to the use of the local Highways Improvement Budget. However, it also means that only unitary councillors can vote.
8. Durham's Area Action Partnerships are able to include the public and partner organisations as voting members. However, they are only able to vote on the use of the area budget to support local priorities. This would then be authorised by the Head of Partnerships and Community Engagement, making use of delegated powers. A benefit to this model is that, by having seven different partner organisations as full members of the Area Board, their 'buy-in' would be ensured.
9. The officer support structure is similar in that both councils have established small, centrally managed teams which support the whole of the area structure. In Wiltshire an Associate Director has also been assigned to each Board, this is beneficial as it helps give the Area Boards status and ensure that recommendations are taken back to the Council and acted upon.

Planning Governance Arrangements

10. Both Councils have an overarching Planning Committee (Wiltshire's is called the Strategic Planning Committee, Durham's is called the County Planning Committee) underpinned by three or four Area Planning Committees.

	Wiltshire Council	Durham County Council
County Planning Committee Remit	<p>Appointments will be made having regard to rules on political proportionality. The Committee currently has 11 members.</p> <p>The committee will exercise the following functions:</p> <p>To make strategic planning decisions as follows:</p> <p>(i) The implications of major developments outside of Wiltshire that could have an impact on local residents;</p> <p>(ii) To consider the following categories of applications for planning permission, if called in by members:</p> <p>a. Large-scale major developments (defined by the Government's planning application statistical returns as those of 200 houses or more or 10,000 square metres of non-residential floor space) which, by their nature, (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance;</p> <p>b. Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility; Significant applications by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or</p>	<p>Comprising 16 Members of the Council, excluding Members of the Executive, the County Planning Committee is responsible for the following, except where delegated to an officer:</p> <p>(i) To exercise the Council's functions relating to town and country planning and development control as set out in Section A of Schedule 1 to the 2000 Regulations, in relation to the following matters:</p> <p>a. Residential development proposals involving 200 or more dwellings or a site area of 4 hectares or more</p> <p>b. All non-residential development proposals (including commercial, retail and industrial developments) of 10,000 or more square metres floor space or a site area of 2 hectares or more.</p> <p>c. Development proposals involving the erection of one or more wind turbines described as Medium-Large or Large and having a height in excess of 40 metres to the blade tip or a site area of 1 hectare or more.</p> <p>d. Applications for renewable energy developments (including Biomass, Hydro-Electric, Geothermal, Gasification or Photovoltaics) of 1 hectare or more.</p> <p>e. All development proposals relating to minerals or</p>

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	<p>by Wiltshire Council jointly with any other person (Regulation 3 applications);</p> <p>c. Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;</p> <p>d. Applications called in by a division-member that cross the boundary of two area committees;</p> <p>e. Any application where the Director for Economic Development and Planning considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses;</p> <p>f. Any application the Director for Economic Development and Planning has determined should be dealt with by the Strategic Planning Committee.</p> <p>(iii) Consider documents relating to the Local Development Framework and advise Cabinet where appropriate.</p> <p>There shall be no referral down of applications from Strategic Planning Committee to Area Planning Committees.</p>	<p>waste</p> <p>(ii) Development which in the opinion of the Head of Planning Services is of strategic significance, including strategic schemes promoted by the County Council.</p>
County Planning Committee Frequency	<p>Meetings are held monthly at County Hall, Trowbridge</p> <p>On average, each meeting considers 1 or 2 applications.</p>	<p>Meetings are held monthly at County Hall, Durham</p> <p>On average, each meeting considers 2 or 3 applications.</p>

	Wiltshire Council	Durham County Council
number of applications considered		
Area Planning Committee Remit	<p>Appointment to each of the area planning committees will be politically proportional having regard to the wishes of group leaders, who would be asked to nominate wherever possible on a geographical basis.</p> <p>There are four Area Planning Committees:-</p> <ul style="list-style-type: none"> - Eastern Area (8 members) - Northern Area (11 members) - Southern Area (11 members) - Western Area (11 members) <p>These relate to the former district council areas in Wiltshire, because when the unitary authority was first established, it inherited existing local plans and development frameworks. It was therefore decided that the planning function should remain within the existing district council boundaries.</p> <p><u>Planning Role and Functions</u></p> <p>(i) To consider planning applications not within the remit of the Strategic Planning Committee and not delegated to officers except where the Director for Economic Development and Planning considers it inappropriate to exercise delegated powers having considered public</p>	<p>There are three Area Planning Committees:-</p> <ul style="list-style-type: none"> - North Durham (comprising the former District Council areas of Chester le Street and Derwentside) - Central and East Durham (comprising the former District Council areas of Durham City and Easington) - South and West Durham (comprising the former District Council areas of Sedgefield, Teesdale and Wear Valley) <p>With each area committee comprised of 16 Members of the Council – 8 Members representing Electoral Divisions within the Committee’s area and 8 other Members from the rest of the County excluding Members of the Executive. Except where the matter is delegated to an officer, Area Planning Committees will have the following functions for the areas:</p> <p>(i) Functions relating to town and country planning and development control as set out in Section A of Schedule 1 to the 2000 Regulations unless those matters fall within the remit of the County Planning Committee</p> <p>(ii) Power to make limestone pavement order</p> <p>(iii) Powers relating to the protection of important hedgerows</p>

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	<p>representations and consultee responses.</p> <p>(ii) To consider matters of local importance within the area such as:</p> <ul style="list-style-type: none"> a. The designation and amendment of conservation areas; b. Village design statements and parish plans where Council approval is required for them to be considered as material considerations in dealing with planning applications; c. Consideration of planning applications called to an area committee by division members, with the exception of those that fall to be determined by the Strategic Planning Committee. <p>There shall be no referral up of applications from the area planning committees to the Strategic Planning Committee.</p> <p>The Director for Economic Development and Planning, after consultation with the relevant cabinet member, shall be responsible for determining whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee in accordance with the criteria set out above. Where requested to do so, the Director for Economic Development and Planning shall be required to set out the reasons in writing.</p> <p><u>Other Roles and Functions</u></p> <p>Where an objection has been received and that objection</p>	<p>(iv) Powers relating to the preservation of trees</p> <p>(v) Powers relating to complaints about high hedges.</p>

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	<p>has not been resolved by officers, to consider matters of local importance within the area such as:</p> <ul style="list-style-type: none"> (i) Registration of common land or town and village greens; (ii) Variation of rights of common; (iii) Determination of applications under the Manufacture and Storage of Explosives Regulations 2005; (iv) Public rights of way, including modification of the definitive map and the regulation of the use of the highway. 	
Meeting frequency and number of applications considered	<p>All four Area Planning Committees meet monthly.</p> <p>Eastern Area meets in the Council Offices in Devizes and considers an average of 2 or 3 applications</p> <p>Northern Area meets in the Council Offices in Chippenham and considers an average of 2 applications</p> <p>Southern Area meets at the Council Offices in Salisbury and considers an average of 2 applications</p> <p>Western Area meets at County Hall, Trowbridge and considers an average of 2 applications.</p>	<p>All three Area Planning Committees meet monthly.</p> <p>Central and East meets at County Hall, Durham and considers an average of 4 applications.</p> <p>North meets at County Hall, Durham and considers an average of 2 applications.</p> <p>South and West meets at the Council offices in Spennymoor and considers an average of 2 applications.</p>
Responsibility for Local Plan	In Wiltshire, the Local Plan includes the Wiltshire Core Strategy incorporating saved policies from district local plans, Chippenham Site Allocations Plan, Minerals and	County Durham's existing development plan is made up of seven Local Plans which were put in place for the former districts of County Durham before the local authority was

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	<p>Waste Plans and made Neighbourhood Plans.</p> <p>A Wiltshire Local Plan/Swindon Borough Plan is being prepared in accordance with the revised National Planning Policy Framework. The Plan is expected to be submitted to the Secretary of State in Quarter 3 of 2020.</p> <p>Each stage of the development process is subject to Cabinet approval and the draft Plan will require the approval of full Council before being submitted to the Secretary of State.</p>	<p>unitised in 2009. There is also a minerals and waste plan. Saved policies in these Local Plans will continue to influence planning and development decisions until the County Durham Plan replaces them. That Plan is currently in development, with the Preferred Option stage having recently been completed. The current timetable for the Plan to be adopted in Summer 2020.</p> <p>The development of the Plan requires Cabinet approval at each stage. Periodic updates are also reported to full Council. The Plan must be approved by full council prior to it being submitted to the Secretary of State.</p>
Officer Delegation	<p>The Director for Economic Development and Planning (and any officers designated by that officer under a Scheme of Sub Delegation) is authorised to:</p> <ol style="list-style-type: none"> 1. determine any planning application and discharge conditions under delegated powers (including tree/hedgerow work applications); 2. deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including listed building enforcement and urgent works notices and taking any further action, including prosecution and direct action in respect of any breach of control); 	<p>The following matters are delegated to the Head of Planning and Assets:</p> <ol style="list-style-type: none"> 1. Determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 or under any related principal or secondary legislation, except the following: <ol style="list-style-type: none"> a. those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days that any Member of the Council requests be determined by the Planning Committee (such must be made in writing to the Head of Planning and Assets

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	<ul style="list-style-type: none"> 3. deal with all types of appeal and their format; 4. where an appeal has been lodged against a planning decision and counsel advises that specific refusal reasons are unreasonable and/or likely to undermine or weaken the Council's case and time constraints prevent the matter being brought back to Committee, officers, in consultation with the Committee Chairman and Local Division Member are authorised to inform the appellant and the Planning Inspectorate that the Council will not seek to defend such reason(s) at appeal, provided any such action does not overturn the substantive decision of the Planning Committee; 5. make and confirm Tree Preservation Orders; Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters; 6. determining any applications made under the high hedges provisions of the anti-social behaviour legislation; including any necessary enforcement action; 7. deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, 	<ul style="list-style-type: none"> specifying material planning grounds on which the request is made and received by the Head of Planning and Assets within 21 days of publication on the weekly list or the initial publication of the proposal (site notice / press notice / service of neighbour consultation letters, whichever is the latest); b. those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days where a Member of the Council or an officer of the Planning Development Service or their spouse/partner or children has an interest in the property or land which is the subject of the application or notification and where there is an objection to the application or notification; c. those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days where, despite a Town or Parish Council having expressed objection or support, the officer is minded to recommend the application or notification on material planning grounds contrary to the wishes of the local council and: <ul style="list-style-type: none"> i. the local council have made a specific request in writing for the application or notification to go before a planning committee; and

	Wiltshire Council	Durham County Council
	<p>building and environmental and other legislation. This includes proposals to change legislation or national guidance and consultation by other planning authorities;</p> <p>8. determine the requirements for, and amend when necessary the local validation list for planning applications;</p> <p>9. make and confirm Article 4 directions restricting or removing permitted development rights;</p> <p>10. nominate officers to represent the council on forums and working parties;</p> <p>11. authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Acts;</p> <p>12. enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);</p> <p>13. make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee's decision. Any such changes will be reported back to a subsequent Committee for members' information;</p> <p>14. annually recommend to the budget process all</p>	<p>ii. the local council have confirmed their intention to attend the planning committee to make representations on the application; and</p> <p>iii. the written request is received by the Head of Planning and Assets within 21 days of publication on the weekly list or the initial publication of the proposal (site notice / press notice / service of neighbour consultation letters, whichever is the latest);</p> <p>d. Major developments (excluding s73 and Reserved Matter applications) comprising:</p> <p>i. major residential developments (10 or more dwellings or a site area of 0.5ha or greater) except where the application is for a substitution of house types on a scheme already benefitting from an extant planning permission;</p> <p>ii. industrial development (floor space of more than 20,000m² or a site area of 4ha or greater) comprised in Use Class B1 (Business) and/or Use Class B2 (General Industrial) and/or Use Class B8 (Storage or Distribution); or</p> <p>iii. development not falling within (i) and (ii) above, where the floor space is 1000 m² (gross) or more or the site area is 1 hectare or more except applications where the use or building would be for agriculture or personal equestrian</p>

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	<p>planning fees and charges;</p> <p>15. refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the timeframe set out in the officer's report and present an information report for acceptance by the relevant Planning Committee on a quarterly basis;</p> <p>16. institute and defend judicial reviews and statutory challenges in consultation with the Director of Legal and Democratic Services;</p> <p>17. Make and serve Building Preservation Notices;</p> <p>18. determine whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee, after consultation with the relevant cabinet member.</p> <p>With the following exceptions:</p> <p>1.1 Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations.</p> <p>1.2 Reference to Committee by Wiltshire Council Division Member – Division Members can request in writing/email that a planning application, or an application for Permission in Principle for Minor Residential Development, within their Division proceed to determination by way of an Area</p>	<p>use;</p> <p>e. those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days likely to have, in the opinion of the Head of Planning and Assets, a significant impact on the environment or are by their nature particularly controversial;</p> <p>f. those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days recommended for refusal which involve the creation of 10 or more full time or equivalent jobs;</p> <p>g. those applications for planning permission or notifications which have a relevant timescale of more than 35 days where there is a significant departure from Development Plan policy and which would be required to be the subject of a notification to the Secretary of State.</p> <p>2. The exercise of the Council's enforcement powers under legislation listed in Appendix 1 to Table 6 in relation to Common Land and Town and Village Greens.</p> <p>3. To decline to determine planning applications under Sections 70A, 70B and 70C of the Town and Country Planning Act.</p> <p>4. To take all necessary steps in connection with the</p>

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	<p>Planning Committee. Any request relating to a planning application must be received within 21 days of the circulation of the weekly list of 'applications received' in which it appears, and any request relating to an application for Permission in Principle must be received within 15 calendar days of the despatch of the email notification of the application to the Division Member. In both cases, Members must set out the material planning consideration(s) which warrant the application going before committee. Officers will confirm what action is being taken following receipt of the request.</p> <p>Applications for tree work, prior approvals, Certificates of Lawfulness; notifications and variations/discharge of legal agreements - where the latter would bring them in line with a planning decision already made by the Council, will not be eligible for call-in and will be dealt with under delegated powers.</p> <p>Where it has not been possible or appropriate to call an application in within this time, officers will accept call in requests in the following circumstances:</p> <p>a) An application has not been determined and it can still go to Committee and be determined within the target date.</p> <p>b) The application is already going to go out of time (because of negotiations/amended plans etc.) and taking it to Committee will make no difference to performance.</p> <p>Where neither of the above apply, and the Division Member thinks there is a strong case to delay the</p>	<p>defence of appeals against any refusal or failure to determine any of the applications and notifications mentioned at paragraph 19 above.</p> <ol style="list-style-type: none"> 5. To provide pre-application advice on proposed or anticipated development schemes in accordance with the Council's Pre-Application Advice Protocol. 6. To respond to any pre-application or other consultation on nationally significant infrastructure projects submitted or to be submitted to the Major Infrastructure Planning Unit under the Planning Act 2008. 7. To carry out reviews of planning permissions as required by the Habitats Directive and the Conservation of Habitats and Species Regulations 2010. 8. To authorise the making and confirmation of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) England Order 2015. 9. To authorise the making of a proposal to the Secretary of State under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for a Direction which would operate to withdraw deemed consent for the display of Letting Boards within the Durham City Conservation Area.

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	<p>determination of the application and take it to committee, they can discuss the case with Head of Development Management who will arrange for a (or discuss with the Director for Economic Development and Planning prior to arranging for) an informed decision whether or not to exercise delegated powers.</p> <p>1.3 If private applications are made by:</p> <ul style="list-style-type: none"> • a member or their close relations; • a Director of the Council or their close relations; or • a planning officer <p>and objections are received raising material planning considerations the application will be determined by a committee.</p> <p>2. It is perfectly acceptable for members to nominate a substitute(s) to undertake their planning responsibilities, including application 'call in', if they have a conflict of interest or during periods of absence such as holidays or illness.</p> <p>3. There will be occasions where it would be possible to deal with certain applications under delegated powers but where the Director for Economic Development and Planning considers it inappropriate to do so, having considered any public representation and consultee responses. In these cases, the applications will be</p>	<p>10. In consultation with the Cabinet Portfolio Holder for Economic Regeneration and the member/s for the Electoral Division/s affected to determine applications for funding of schemes from monies held by the Council under Unilateral Undertakings and agreements made under S106 Town and Country Planning Act 1990.</p> <p>11. To authorise the drafting, negotiation and completion of Section 106 Planning Obligations, S106A Variations to Planning Obligations and Release of Section Planning Agreements and Section 39 Agreements and to authorise the giving of any approval or consent required pursuant to a S106 Planning Obligation, S106A Deed of Variation or Section 52 Planning Agreement, or Section 39 Agreements.</p> <p>12. Authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 on behalf of the Council.</p> <p>13. Authorise the taking of prosecution action applications for injunctions and to instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the enforcement of legislation referred to in Appendix 1 to Table 6.</p>

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	<p>determined by an appropriate planning committee.</p> <p>4. The following applications, if called in, shall be dealt with by the Strategic Planning Committee:</p> <ul style="list-style-type: none"> • Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues; • Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility; • Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval; • Applications called in by a Division Member that cross the boundary of two Area Planning Committees; • Any application that the Director for Economic Development and Planning deems raises issues that should be considered by the Strategic Planning 	<p>14. To administer simple and conditional cautions to persons guilty of criminal offences under the legislation referred to in Appendix 1 to Table 5 and in accordance with PACE and Home Office guidance.</p> <p>15. Authorise the taking of default action under Sections 178 and 219 of the Town and Country Planning Act 1990.</p> <p>16. Authorise the making of Orders under Section 257 of the Town and Country Planning Act 1990.</p> <p>17. To apply to the Secretary of State for an order under Section 249 of the Town and Country Planning Act 1990.</p> <p>18. To exercise powers of revocation/modification of planning permissions (Section 97), discontinuance of a use/alteration or removal of a building (Section 102 and Schedule 9) and the making of Prohibition or Suspension Orders (Schedule 9) of the Town and Country Planning Act 1990.</p> <p>19. Authorise the making, confirmation, revocation and variations of Tree Preservations Orders.</p> <p>20. In connection with any proposed development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, determine whether an Environmental Impact Assessment is required (screening) and the</p>

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	<p>Committee.</p> <p><u>Definitions</u></p> <ul style="list-style-type: none"> • Planning application means any application submitted to the Council for determination and included within the Government’s planning application statistical returns. (This is a statistical questionnaire dealing with performance which local authorities have to submit regularly to the government and which divides planning application into distinct categories; householder, minor, major etc.) • ‘Large scale major development’ means any application for 200 or more houses; residential development of 4ha or more or other development of more than 10,000 square metres or more than 2ha, as defined by the Government in the planning application statistical returns. • Householder development and the other descriptions of development referred to above shall have the meaning ascribed to them in the Government's planning application statistical returns. • Enforcement notices includes all other formal notices under the Planning Acts used to investigate and remedy alleged breaches of planning control or improve the appearance of an area, including Breach of condition notices and Section 215 	<p>information required (scoping).</p> <ol style="list-style-type: none"> 21. Authorise individual named officers to exercise powers of entry contained in such Acts of Parliament as relate to the relevant statutory functions of the planning authority. 22. To administer and determine complaints about high hedges under the Anti- Social Behaviour Act 2003. 23. The obtaining of information under Section 330 of the Town and Country Planning Act 1990. 24. To exercise the Council’s powers to take temporary possession of land pursuant to the Neighbourhood Planning Act 2017. 25. Act under and in respect of the relevant Sections of the Building Act 1984 and Building Regulations 2010 with regard to giving of notices and requiring the laying open, cutting into, and pulling down the building or works. 26. Accept and reject notices, certificates and certificates of compliance from Approved Inspectors and Public Bodies under Sections 47 to 54, Building Act 1984 and to issue safety certificates in accordance with the Safety of Sports Grounds Act 1975 and Part III, Fire Safety and Safety of Places of Sport Act 1987. 27. To authorise, sign and serve all notices and deal with all applications, licences, revocations and

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	<p>notices.</p> <ul style="list-style-type: none"> • A private application is one which has no connection with a member or officer’s council duties. For example, if an officer submitted a Regulation 3 application on behalf of Wiltshire Council it would not be a private application. • A close relation is defined as spouse, partner, sibling, parent or offspring. • Minor residential development means housing led development of between one and nine dwellings. 	<p>suspensions and take all necessary enforcement action on behalf of the Council in respect of its responsibilities for matters of building control.</p> <p>28. In consultation with the Local Members and the relevant Cabinet Portfolio Member, to sell or lease any property which is surplus to the requirements of the Service for which it is held and where after enquiries no other Service has expressed an interest in the property.</p> <p>29. To approve the principle of acquiring property at a price not exceeding £100,000.</p> <p>30. To settle the terms of the purchase or lease of property the acquisition of which has been approved in principle by the Council and to settle any dilapidation claim at the end of any lease acquired.</p> <p>31. To negotiate the acquisition of easements, rights of way, wayleaves, licences, covenants and consents for the benefit of Council land and property.</p> <p>32. To accept the dedication or transfer of land to be maintained as public open space subject to satisfactory terms being negotiated for contribution to the cost of maintenance.</p> <p>33. To deal with applications for easements, rights of way, wayleaves, licences, covenants and consents affecting council land and property not materially</p>

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		<p>affecting the use to which it is or might be put.</p> <p>34. To approve the granting of an option over Council land or the acquiring by the Council of an option over land and to approve the extension of any option granted or acquired.</p> <p>35. To authorise the use of Council land as a permissive right of way and/or to dedicate Council land as a public right of way.</p> <p>36. In consultation with the appropriate Service representative to grant leases on any council owned property, whether or not it has been declared surplus.</p> <p>37. In respect of leases, to carry out rent reviews and to grant renewals, variations, assignments, sub-lettings, surrenders and other landlords' consents.</p> <p>38. To agree the appropriation of land from one use to another where this is necessary to facilitate schemes to be carried out by or on behalf of the Council.</p> <p>39. To settle compensation claims not exceeding £50,000 either under the provisions of Part 1 of the Land Compensation Act 1973 or as a result of the Council taking entry to property for borehole samples, surveys or other site investigations.</p> <p>40. To negotiate and agree the rating assessment and valuation of all council owned property, in consultation with the Head of Corporate Finance and Commercial</p>

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		<p>Services.</p> <p>41. To require information as to interests in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>42. To negotiate abortive costs in the event of a transaction not proceeding in circumstances where the Council has a liability to pay costs.</p> <p>43. Where required as part of the appropriate management of the Council's assets, to authorise the demolition of Council buildings.</p> <p>44. To approve disposals and appropriations of Open Space and Public Walks and Pleasure Grounds as set out in Section 10 of the Open Spaces Act 1906 and Section 164 of the Public Health Act 1875 subject to seeking guidance from the Highways Committee in the event of unresolved objections being received.</p> <p>45. To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto, as defined in Part 5, Chapter 3 of the Localism Act 2011.</p> <p>46. All duties arising out of the establishment of the Business Improvement Districts.</p> <p>47. To designate any areas to be of special architectural or historical interest as conservation areas; to review and amend the boundaries and conclude Character</p>

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		<p>appraisals and to formulate and prepare proposals for the preservation and enhancement of those areas.</p> <p>48. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation to reflect new or modified statutory provisions.</p>

Commentary

11. There is a consistent approach across county unitary councils (also adopted by Cornwall and Northumberland) to the governance arrangements for Planning. This is to establish a countywide Planning Committee to consider ‘big ticket’ items and underneath that, to establish Area Planning Committees on the footprint of the former district councils. It will be seen that there is wide delegation to officers to deal with routine planning matters, as is currently the case for most district councils in Leicestershire.
12. The main reason for establishing Area Committees on the footprint of the former district councils is to allow for the fact that Planning Policy (set out in Local Plans) will continue to be based on district geographies until such time as a single countywide Local Plan is developed. This can take a number of years, for example County Durham still does not have a single countywide Local Plan.
13. In both Wiltshire and Durham, the Cabinet has the responsibility for developing the Local Plan and full Council approval is also required before the Plan can be submitted to the Secretary of State.
14. Area Planning Committees in Wiltshire meet in the relevant area to ensure that the meetings are accessible to local people. This is only the case for some of the meetings in County Durham; two out of the three Area Planning Committees meet at County Hall.
15. With regard to membership, both Wiltshire Council and Durham County Council require the Area Planning Committees to be politically balanced. Wiltshire’s Constitution states that “appointment to each of the area planning committees will be politically proportional having regard to the wishes of group leaders, who would be asked to nominate wherever possible on a geographical basis.” Durham’s Constitution, however, requires membership to consist of “8 Members representing Electoral Divisions within the Committee’s area and 8 other Members from the rest of the County excluding Members of the Executive”.

16. There are benefits to either membership option. The benefit for Wiltshire is that the Committees are largely made up of local members, with the relevant local knowledge, take planning decisions in the local area. The exception would be where political balance does not allow for a local member to be appointed to the Committee. For Durham, half the Committee is made up of local members so achieves that local focus and knowledge. The other half of the Committee is not and this has a benefit in terms of ensuring that there is consistency in decision making across the County, which could be particularly attractive once a single Local Plan has been developed.

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