

## Council 25<sup>th</sup> April 2024

<b>Report Title</b>	<b>Planning Improvement Board</b>
<b>Lead Member</b>	Cllr Jason Smithers, Leader of the Council
<b>Report Author</b>	George Candler, Executive Director of Place & Economy (Deputy Chief Executive)

<b>Are there public sector equality duty implications?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Does the report contain confidential or exempt information (whether in appendices or not)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972</b>	
<b>Which Corporate Plan priority does the report most closely align with? <a href="#">Our priorities for the future   North Northamptonshire Council (northnorthants.gov.uk)</a></b>	Safe and thriving Places

### List of Appendices

**Appendix A** – Summary Internal review findings and Action Plan

**Appendix B** – Terms of Reference, Planning Improvement Board

#### 1. Purpose of Report

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- 1.1 The Council recognises that it needs to deliver a significant step change within the planning service, to enable the Council to effectively manage and deliver the service to meet its statutory obligations as the Local Planning Authority.
- 1.2 This report advises Councillors of the findings of an internal review and proposes the adoption of a Planning Improvement Plan (PIP) and Planning Improvement Board (PIB) to address the action plan recommended in the report arising from this review (see Appendix A) and the planned follow-on internal audit reviews scheduled in Quarter 3 of 2024/25 (October – December 2024), and advice provided from the Planning Advisory Service following their forthcoming visit in May 2024.
- 1.3 Following local government reorganisation (LGR) in April 2021 the Council has taken steps to bring together and synergise five planning departments. Despite some progress over the last 3 years such as the development of a detailed Transformation Plan following the Planning Advisory Service review in autumn 2022, and a review of the planning committees, there still remain a number of operational concerns, as the recent planning

application has highlighted.

1.4 Planning application ref NC/22/00198/DPA (“the Weetabix site”).

A planning application for the former Weetabix site was approved by the Council in September 2022. The planning application related to the building of a 160,800ft<sup>2</sup> warehouse on a former Weetabix factory site in Corby. Permission was implemented in October 2023 with works commencing on the site; in particular, the erection of a steel frame warehouse. In February 2024, the Council received feedback from residents whose houses abutted the site that:

- They had not been consulted on the planning application.
- The site notice had not been placed in the correct location.
- Issues regarding the building works were also raised: noise etc.

As a result of the representations received, officers responded as a matter of urgency and found concerns regarding the processing of the application, as a result of which the Leader instructed the Executive Director of Place and Economy to commission an urgent, independent review into the processing of the application.

1.5 The independent review sought to establish:

- How the errors in relation to the addresses used for neighbour consultation letters and the placement of the site notice occurred;
- Whether any internal controls had been circumvented or overridden in relation to the above; and
- Any changes to the control environment recommended to prevent further incidents/errors of a similar nature.

The investigation was not intended to establish the legal position regarding the planning application approval nor any next steps in relation to the development in question. Furthermore, the investigation was not intended to review any other areas of compliance relating to the planning application in question. The investigation was limited in scope to these core areas so that it focused on the immediate concerns raised.

1.6 A summary of the findings of the independent review and action plan are attached at Appendix A. The findings of the investigation have highlighted issues with the processes in place at that time within the service and where expected controls had failed. It is proposed that the findings from this report will feed into the PIP and PIB. Assurance will be sought over compliance with current processes and controls to ensure that the processing of planning applications is effectively managed going forward.

1.7 This report addresses the identified issues within the planning department as set out in the report on key findings from the investigation and associated action plan. A key aim of the actions arising from this report is to ensure the Council provides the best possible planning services to residents, developers and stakeholders, and that it meets its legal obligations. This report is presented to give Councillors assurance, early oversight and awareness of the issues identified and to demonstrate the Leader of the Council’s commitment to ensuring a robust and transparent

process is followed to deliver a step change and continuous improvement in the delivery of the planning service. This report sets out the proposed process to be followed to address the immediate issues identified and also a longer-term action plan.

- 1.8 Initially a PIP will be developed within eight weeks under the direction of a PIB. The PIB will be made up of seven members and will be politically representative to include 4 conservative members plus one member from each of the recognised political groups. The PIB will be chaired by a conservative member. It is proposed that the first meeting of the PIB be in May 2024 and that meetings occur at least every 2 months thereafter.
- 1.9 The PIB will be advisory in its purpose where matters are of an operational nature. Where improvements are developed under the wider constitution then these will be brought forward through Place and Environment Scrutiny, Democracy and Standards Committee and Executive. It is proposed full Council receive a progress update report every 6 months or as appropriate.
- 1.10 The actions identified from the independent review require the Council's urgent attention to ensure planning processes are robust, consistent and any risks are mitigated as much as possible. In view of this, officers have sought advice from the Planning Advisory Service ("PAS"). Specifically, PAS have been asked to support with defining what a good Planning Service looks like, in terms of processes and procedures, so that proposed remedial actions can be presented via the PIP to the PIB and their implementation considered, to address all concerns that arise through this process.
- 1.11 The Leader of the Council has made clear the importance of ensuring compliance and that improving planning services is a key priority. Therefore, he is presenting this report to support transparency, openness and cross-party engagement. The PIP will give considerable focus to addressing the issues identified, and its adoption will demonstrate a continuing commitment to that. Improvements will restore public confidence in the service.
- 1.12 This report acknowledges that in the processing of the application relating to the Weetabix site there has been non-compliance with the law: Section 5 Local Government and Housing Act 1989. In presenting this report at a meeting of full Council the Monitoring Officer is satisfied that the issues pertaining to Section 5 are addressed. This report is being considered by all elected members of the Council and it identifies the concerns and issues that would be raised by the Monitoring Officer if a Section 5 report were presented. Bringing a report in this form supports consideration of these issues and concerns, will provide a response to them and fulfils the requirements of a Section 5 report.

## **2. Executive Summary**

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- 2.1. A planning application was approved for a site in Corby by the Council in September 2022. The planning application related to the building of a

160,800ft<sup>2</sup> warehouse on a former Weetabix factory site in Corby. Permission was implemented in October 2023 with works commencing on the site that month. In February 2024, the Council received feedback from residents whose houses abutted the site that:

- They had not been consulted on the planning application.
- The site notice had not been placed in the correct location.
- Issues regarding the building works were also raised: noise etc.

- 2.2. This report provides insight into the findings of an internal review that was undertaken following this feedback and proposes the adoption of a Planning Improvement Plan (PIP) and Planning Improvement Board (PIB) to address the action plan recommended in the independent report arising from this review. The report also highlights the planned follow-on internal audit reviews scheduled in Quarter 3 of 2024/25 (October – December 2024), and advice to be sought from the Planning Advisory Service.
- 2.3. The proposed Planning Improvement Board will be made up of four conservative members (including the chair) plus one representative from each of the recognised political groups. A Terms of Reference is also included as part of the report

### **3. Recommendations**

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3.1 It is recommended that Full Council:

- i) Approve the establishment of the Planning Improvement Board and its draft Terms of reference (attached at Appendix B). The Board will be chaired by a member of the administration and will be made up of 4 conservative members (including the chair) plus one representative from each of the recognised political groups.
- ii) Approve the establishment of a Planning Improvement Plan that will be overseen by the Planning Improvement Board and reported on to Place and Environment Scrutiny Committee, Audit and Governance Committee, Executive and full Council as required
- iii) To note the specific remedial actions taken thus far and proposed with regards to the processing of planning applications as set out at paragraph 4.9.
- iv) To note the proposed governance arrangements as set out at paragraphs 4.11 to 4.14 to ensure effective oversight and monitoring of progress in relation to the Planning Improvement Plan and the work of the Planning Improvement Board.

### 3.2 Reasons for Recommendation:

- The PIP and PIB would be formulated to address the issues identified in the independent review. The review has highlighted a need for the Council to address issues that appear to have developed following LGR specifically relating to the processing of planning applications. Upon identification of specific issues, the Council has responded promptly and diligently to rectify weaknesses and the PIP will show a significant and continuing commitment to improving standards in the planning service.
- The Council, as local planning authority has a duty to comply with legislation and its own policies in processing planning applications. Failure to do so leaves the Council vulnerable to challenge and negatively impacts public and stakeholder confidence in the service.
- The proposal to establish a PIP and PIB reporting to Place and Environment Scrutiny, the Audit and Governance Committee, and full Council, as required, provides a focus on key areas which means there is greater oversight and accountability from the leadership of the organisation and Councillors to address the issues that have been identified within the planning service as a key priority. Officers will support development of the PIP. The governance arrangements proposed will provide even greater focus and scrutiny from Councillors giving assurance to the Council of the work that is to be undertaken.

3.3 Alternative Options Considered: Given the Council's statutory duties as Local Planning Authority and the risks highlighted in respect of compliance, maintaining the status quo (do nothing) is not deemed acceptable and further resource and focus will be required to ensure compliance with legislation and planning policy.

## 4 Report Background

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4.1 The Council is the Local Planning Authority ("LPA") for the Council's administrative area covering Corby, Kettering, Wellingborough and East Northamptonshire. As the LPA the Council has a legal obligation to ensure planning applications are processed in accordance with:

- The relevant legislation
- National Planning Policies and Guidance including the National Planning Policy Framework and the Planning Practice Guidance.
- Local planning Policy Framework

4.2 The Council wants to ensure that it meets these obligations and also has an aspiration to deliver a high-quality service to stakeholders so that there is trust and confidence in its processes. A high-quality Planning service will also support and progress wider economic development across North Northamptonshire. This report proposes a plan that will provide a focus in this area with a view to delivering significant improvement and assurance with oversight by Councillors.

- 4.3 Following LGR, the planning service has faced a number of challenges ranging from bringing five planning services together, all with different cultures and ways of working, through to the national challenge many local authorities face of recruiting planning staff, in an extremely competitive market. This has resulted in a higher number of agency workers than the service would ordinarily want, but due to the statutory nature of the service, and the high economic development growth in North Northamptonshire, the use of these workers has been a necessity. As a result, there has been a degree of instability in the team, both in terms of leadership and wider turnover of staff. Following the commissioning of the independent review, it is apparent from the findings that there are significant and long-standing challenges in relation to effectively delivering the planning service.
- 4.4 The Council, recognising the need to improve at pace, invited the Planning Advisory Service (PAS) into the authority in autumn 2022 to undertake a 'Peer Review' of the Planning Service. The findings and their report were published in December 2022 and from this a cross-party member Transformation Board was formed to develop an action plan set against the 13 recommendations. 35 actions were established and to date 26 are completed with the remaining 9 all in progress.
- 4.5 The Planning service also has a range of Key Performance Indicators (KPIs) and Management Performance Indicators (MPIs) which are reported monthly to the Place & Economy Departmental Managers Meeting. The KPIs are also reported to Executive Committee monthly and to Corporate Scrutiny Committee. However, note that not all KPIs are reported on a monthly basis, some are reported quarterly or annually as the context so requires.
- 4.6 The year-to-date position of the planning services KPIs as at Period 11 shows that both the major and minor application processing time turnaround has been under-performing and 'other' application processing has been performing within the tolerance of its statutory target. KPIs measuring minerals and waste planning application processing, planning policy housing land supply and additional homes are all meeting targets.
- 4.7 KPIs reported within 2023-24 are as follows:
- STP15 Percentage of major planning applications determined within 13 weeks (or within agreed extension of time)
  - STP16 Percentage of minor planning applications determined within 8 weeks (or within agreed extension of time)
  - STP17 Percentage of other (including householder applications) planning applications determined within 8 weeks (or within agreed extension of time)
  - STP18 Percentage of planning application appeals allowed as a proportion of planning decisions made
  - STP19 Total number of planning applications received – all types of applications
  - STP41 Percentage of applications determined which were subject to an extension of time

4.8 KPIs proposed to be reported for 2024-25 for the planning area (Development Management) area as follows:

- STP15 Percentage of major planning applications decided on time (including agreed Extensions of Time) - Monthly
- STP16/17 Percentage of non-major planning applications decided on time
- STP15a Percentage of major planning applications decided on time (2 year rolling)
- STP16/17a Percentage of non-major planning applications decided on time (2 year rolling)
- STP18a Percentage of major planning applications overturned on appeal (2 year rolling)
- STP18b Percentage of non-major planning applications overturned on appeal (2 year rolling)
- STP19 Total number of planning applications received - ALL TYPES of applications
- STP41 % planning applications determined which were subject to an extension of time
- STP23 Percentage of NNC County Matter (minerals and waste) planning decisions made within the required timescale

It is clear however that whilst performance has remained consistent and positive in many areas, the wider review of planning processes used in the processing of planning applications needs undertaking, to more effectively understand and ensure the issue with the application site mentioned herein is not repeated.

4.9 Since the issues were raised in February 2024, a number of immediate actions have been taken by officers including:

- The introduction of a Site Visit Protocol has been developed and embedded into the work of all Development Management Staff, to ensure correct photos have been taken, the context of the site is clear, and a plan highlighting the key positions of the site notice placement is recorded.
- All future Planning Reports now list all consultees, including residents and occupiers. Detailed responses are highlighted, listing concerns and how these have been reflected in the report. This ensures a check at report writing stage before it goes for validation to the officer authorised to sign off the report.
- Northings and Eastings are now identified on all new planning forms within the planning portal if the postcode is not accessible. This action substantially reduces the risk of errors.

The above will help to mitigate any future incidents and also ensures planning reports are transparent.

4.10 Following on from the positive improvements made after the PAS review, and to ensure that the service has sufficient resources to deliver a step change in improvement, officers will work with the PIP and PIB on a more fundamental and substantial improvement plan. The issue will also be

considered as a new risk to be added to the Council's Corporate Risk Register and if agreed, will accordingly be reported to the Audit and Governance Committee in accordance with their functions and responsibilities. A report will be presented to the Audit and Governance Committee highlighting the key findings and next steps. Internal Audit will be conducting an audit in 2024/25 and this will be reported to the committee. The outcomes of this will also inform the ongoing PIP, who will in turn make recommendations as to the actions that are necessary for the PIB and ultimately Council to demonstrate compliance and make improvements to the management of the planning service.

#### 4.11 **Planning Improvement Plan (PIP)**

In response to the issues outlined above, a comprehensive Planning Improvement Plan is proposed. The key focus of this plan is to address the issues identified in the processes adopted by the team in the delivery of the service, particularly the processing of planning applications. Alongside these improvements, the PIP will also explore wider improvements (cultural and technology) and actions as appropriate.

The Council is also due to have a follow-up PAS visit on the 15 May 2024 primarily to review progress set against the original report recommendations in December 2022. However, PAS have been made aware of the recent issues encountered and have been separately asked to consider how they could help develop robust processes and procedures, set against best practice for the planning service.

Based on this, the scope of the PIP will include:

- The Actions from the independent review (Attached at Appendix A)
- The actions from the forthcoming PAS visit on 15th May that specifically looks at and identifies models of best practice from other planning services that could be adopted here at NNC.
- The Actions that will come from the follow up Internal Audit work that will be undertaken in the autumn 2024

#### 4.12 **Planning Improvement Board (PIB)**

It is proposed that the board be made up of 4 conservative members (including the chair) plus one representative from each of the recognised political groups. The PIB will meet as a minimum every 2 months and will report, as required, to:

- Place and Environment Scrutiny
- Audit and Governance Committee
- Executive (as required for key decisions)
- Democracy and Standards (as required for any amendments to the constitution)
- Full Council (every 6 months for progress updates)



#### 4.13 **Wider actions to manage and improve the planning service more generally**

In addition to the above actions which seek to ensure that the Council is meeting its legal obligations, the actions set out below seek to ensure an overall comprehensive compliance regime within the Council together with the adoption of sector best value, as advised by the Planning Advisory Service.

- 4.13.1 Policy framework: A framework including policies, procedures and guidance notes will be developed and presented as part of the PIP.
- 4.13.2 Internal audit review: reviews will take place in 2024/25 and the findings, recommendations and actions will all feed into and inform the PIP.
- 4.13.3 Monitoring: It is essential that effective monitoring of the development of the PIP and compliance against it is integrated as part of the plan. This will be done by developing an action plan, that will be monitored by the PIB. The Action Plan will detail not only the actions, but the difference they will make, and also be clear on timeframes for completion.
- 4.13.4 Engagement with PAS: The Council has worked positively with PAS since autumn 2022 and will continue to do so. The forthcoming visit on 15<sup>th</sup> May will also provide an opportunity for a wider 'health-check' on the planning service.
- 4.13.5 Stakeholder engagement: This will be provided through the regular reporting at scrutiny, audit and governance, Executive and Council.
- 4.13.6 Interim resources: A full time additional resource will be engaged to provide a degree of pace over the first 6 months and will be kept under review.
- 4.13.7 Service development: Whilst the immediate focus has to be on improving the delivery and processing of the planning service it is recognised there is a need to deliver step change. The PIP will therefore explore wider service improvements as the work evolves.

#### 4.14 **Governance and Oversight of the PIB**

In light of the issues highlighted in the independent review, officers have taken immediate steps to ensure compliance with the legal framework underpinning the processing of planning applications.

In terms of governance, regular updates will be provided to the Place and Environment Scrutiny Committee, the Audit and Governance Committee, Executive, and Full Council, as required, in relation to the work undertaken as part of the PIP and required improvements. Outside of this, more informal updates will be explored, including through the internal Members Bulletin and all member briefings, as necessary.

## **5 Issues and Choices**

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- 5.1 Given the issues highlighted by the independent review and the urgency, the development of a PIP and PIB are considered necessary. Given the Council's statutory duties as Local Planning Authority and the risks highlighted in respect of compliance, maintaining the status quo (to do nothing) is not recommended.
- 5.2 Progress on the PIP will be reported through the governance process highlighted within this report.

## **6 Next Steps**

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- 6.1 It is proposed, subject to Full Council approval, to establish the PIB in May 2024 with the first meeting also taking place during the same month.
- 6.2 Running alongside this will be the PAS repeat visit on the 15<sup>th</sup> May 2024 and any additional advice and guidance they can provide to feed into the PIP.
- 6.3 It is expected to provide a progress update back to Full Council within 6 months of the PIB being established (before the end of December 2024).

## **7 Implications (including financial implications)**

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### **7.1 Resources, Financial and Transformation**

- 7.1.1 In relation to the establishment of the PIB and development of the PIP, there are no immediate financial implications or resource issues at this stage. There is a specific piece of work over a period of six-months to accelerate the completion of actions as identified in the review referred to in this report. The cost of this will be found from within existing budgets.
- 7.1.2 The separate Planning Transformation Plan emanating from the PAS review in autumn 2022 will remain under review until all actions are complete.

### **7.2 Legal and Governance**

- 7.2.1 Under section 5 Local Government and Housing Act 1989, where it appears to the Council's Monitoring Officer that there has been a contravention by the authority, by any committee, or sub-committee of the authority, by any person holding any office or employment under the authority, or by any such joint committee of any enactment or rule of law it is her personal duty by law to report to the Authority. The Authority must consider any such report within 21 days of receipt of it.
- 7.2.2 The Monitoring Officer believes that the compliance issues relating to the processing of [the said] planning applications amount to a contravention of obligations required by law. This report is being considered by all elected members and identifies the concerns that would be raised by the Monitoring Officer in a section 5 report. In bringing this report, and accepting the contravention, the Monitoring Officer is satisfied that the Council will provide a

response within consideration of the report to concerns raised. The Monitoring Officer will have intensive oversight of the issues raised and monitor in accordance with her personal duty under legislation. Specialist planning lawyers will also support her in this.

7.2.3 The Council must ensure that it complies with all relevant statutory requirements when validating, processing and determining planning applications, including, but not limited to those contained within the Town and Country Planning Act 1990 (as amended), the Town and Country Planning (Development Management Procedure) Order 2015 and the Planning and Compulsory Purchase Act 2004. The Council also has a legal obligation to also ensure that planning applications are considered against local development plans and national planning policy and guidance including the National Planning Policy Framework (December 2023) and the Planning Practice Guidance.

### **7.3 Relevant Policies and Plans**

7.3.1 The PIP and PIB will support the Council's Corporate Plan 2021 – 2025, the continued transformation agenda and other key strategies and plans that deliver the best outcomes for our residents.

### **7.4 Risk**

7.4.1 An immediate response to the issues that transpired with the said application was mobilised, in particular the independent review. Some immediate actions were also undertaken by the service as identified in paragraph 4.9. The further steps intended as set out in this report will, if approved, be implemented at pace, and will be subject to close review and scrutiny.

7.4.2 There are no further risks to consider at this stage arising from the proposed recommendations in this report. Further risks however may be identified in the future internal audit review. Should this happen then this will be reported back to the Planning Improvement Board and factored into the Planning Improvement Plan.

### **7.5 Consultation**

7.5.1 None required for this report.

### **7.6 Consideration by the Executive**

7.6.1 The Executive would be engaged as considered appropriate by the PIB and PIP.

### **7.7 Consideration by Scrutiny**

7.7.1 The Place and Environment Scrutiny committee would receive updates as determined by the PIB as the work on the PIP progresses.

### **7.8 Equality Implications**

7.8.1 There are no Equalities impacts arising from this report.

## 7.9 **Climate Impact**

7.9.1 There are no specific climate impacts arising from this report.

## 7.10 **Community Impact**

7.10.1 There are no specific community impacts arising from this report.

## 7.11 **Crime and Disorder Impact**

7.11.1 There are no specific crime and disorder implications arising from this report.

## **8 Background Papers**

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- Fact finding investigation report, recommendations and action plan.
- Planning Advisory Service Report and Action Plan