

Title of Report:	Design Arbitrator
Committee Report Submitted To:	Planning Committee
Date of Meeting:	26 October 2022
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Head of Planning

Budgetary Considerations	
Cost of Proposal	Nil
Included in Current Year Estimates	
Capital/Revenue	
Code	
Staffing Costs	

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

1.0 Background

1.1 Council, at its meeting held on 01 September 2020, ratified the recommendation of the Corporate Policy and Resources Committee meeting held on 25 August 2020 as follows:

“Given the strategic significance of planning to Causeway Coast and Glens Borough Council – this Council calls for a full Independent review of Planning processes by an appropriate qualified body or Group, to include Service Users, Agents and Applicants; and for this to be carried out within a 6 months’ timescale.”

1.2 On 01 December 2020 Council approved a direct award contract to Mr Jim Mackinnon to provide the full independent review.

1.3 The report was presented to Corporate Policy and Resources Committee at the meeting held on 28 September 2021 and ratified by Council at its meeting held on 05 October 2021. Council further resolved at that meeting that a working group be established of 8 Members to meet bi-monthly to take the action plan forward.

2.0 Details

2.1 The Action Plan sets out 4 overarching goals:

- Seek amendments to the complex planning legislation and detailed policy;
- Improve efficiency in the processing of planning applications;
- Improving communications with customers to improve customer service; and
- Stabilise staffing resources.

2.2 One of the actions within the Action Plan is to “*Introduce a process for impartial advice on design matters*”. As a result, the Scheme of Delegation for the Planning Department was amended to enable Members to request referral of a planning application that is recommended for refusal on design matters to be referred to the Planning Committee for determination. Secondly, a selection of senior planning officers have completed an RTPI masterclass in ‘Planning and Good Design’. The report addresses the final action to scope procurement of impartial design arbitrator.

2.3 The first step in scoping the procurement of an impartial design arbitrator is to look at other jurisdictions to ascertain the type of design arbitrators they have available to assist on design in the planning application process and secondly to establish best practice.

Wales

2.4 The Design Commission for Wales was established by the National Assembly for Wales to promote good design. They are an expert multi-disciplinary team of 38 practising professionals who work with local planning authorities, investors, developers and commissioning clients. They are not a membership organisation or professional body and do not represent the interests of a single profession. They have a range of experience including architecture, urban design, commercial

property development, landscape, transport, energy, civil and structural engineering, sustainability, carbon reduction, planning and environmental design.

- 2.5** The Design Review Service that the Design Commission offers provides an opportunity for early discussion on plans and projects prior to the submission of planning applications. Their comments represent material considerations in the determination of planning applications providing an independent expert view. They consider projects of varying types and scale.
- 2.6** The review is carried out with the client, design team and local authority present. Their review is informed by relevant legislation, national and local planning policy, guidance and standards. A written report is issued to those who attended the meeting within 10-14 working days and normally made available publicly.
- Scotland
- 2.7** Architecture & Design Scotland was set up by the Scottish Government in 2005 as an executive Non-Departmental Public body (NDPB) to help change how Scotland's places are planned, designed, delivered and sustained.
- 2.8** The Design Forum works with community groups, architects, local authorities and all key stakeholders and draws on a range of experience from a multi-disciplinary team.
- 2.9** The local authority officers engage in the advice process with the Design Forum and the client improving the review process and improving dialogue to solve issues of concern. It reduces the need for written reports and this iterative facilitative approach is considered to have greater benefits than a peer review panel which can be detached from the overall process.
- 2.10** There is a 3 stage process which can be tailored to the particular needs of the project. Shorter meetings or telephone calls may be offered to allow the project to progress. A meeting with the local authority may take place at the end of the appraisal stage to assist in understanding unresolved issues. For smaller projects the A&D staff can provide advice through informal meetings. The process is limited to 3 meetings or workshops.
- 2.11** Inverness Design Review Panel is made up of representatives from organisations that have an interest in improving the quality of buildings and places for the public benefit. These organisations include Inverness Civic Trust, Inverness City Heritage Trust, Inverness Architects' Association, RTPI, High Life Highland, Inverness College UHI, Police Scotland and Historic Scotland. Six panel meetings take place per year with up to 3 development proposals discussed at each meeting
- 2.12** The Panel seeks to meet and advise design teams and developers as an early stage of the design process. The review process consists of:
- Short presentation by the Highland Council
 - Short presentation from the design team for the developer
 - Facilitated panel discussion
 - Preparation of confidential written Panel report
 - Circulation of Panel Report to the design team

- Publication of the Panel Report in the public record of the planning application if application is lodged

England

- 2.13** The Design Review comprises a group of multi-disciplinary built environment professionals providing expert advice to applicants and local authorities on design issues in relation to important new development schemes and proposals for important public spaces, including significant minor applications, major planning applications and PAD proposals. The Design Review Panel's feedback is a material consideration in the determination of planning applications.
- 2.14** Applicants or their design team present their scheme to the Design Panel and the Panel members are then given the opportunity to ask questions of the presenters. The Design Panel then consider the scheme in private before bringing the presenters and local authority back into the meeting. The Design Review Panel Chair verbally summarises the comments of the Panel. A written Feedback Document is produced by the Design Panel and this is emailed to the person who requested the review meeting.

Northern Ireland

- 2.15** The Ministerial Advisory Group (MAG) is sponsored by the Department of communities (DfC) and at present provides free advice. It comprises publicly appointed experts from across the built environment professions. It is the only independent advisory group in Northern Ireland. It offers expert, independent and impartial advice on the design of new buildings, landscapes and public spaces.
- 2.16** The role of MAG is to advise and assist in delivering better designs and better places. is no limit to the scale of the proposed development that MAG will consider. They offer briefing reviews, briefing workshop, pre-planning design reviews and reviews as part of the planning process, all of which are currently free of charge.
- 2.17** Briefing reviews allow for engagement at the inception stage of a project. They allow for identification of project potential in the wider context. Briefing workshops can take account of the wider social, environmental and economic contexts in setting an holistic strategic ambition for the project. This can help ensure project potential is optimised with respect to contributing to the urban or rural environment and the community in which it is based. Design peer reviews offer a non-adversarial, collaborative approach based on UK and international best practice.
- 2.18** Projects may be referred to MAG by developers and their project team; design teams; or by Planning Authorities within Councils. The review will consist of the developer and their project team, a panel of 3 independent MAG advisors, MAG Secretariat and Planning Officers where the application is referred by the Planning Authority.
- 2.19** The review process consists of a pre-meeting with the Panel Chair and MAG Secretariat. Relevant documents submitted by the project team are reviewed and the panel undertake a site visit. This is followed by the Design Workshop/Review. The Design Review consists of a 10 minute introduction and preambles by the panel chair followed by a 5 minute introductory comments by the Planning Officers. The

Project Team present the project for 20-30min and this is followed by a 15 minute question and answering session by the panel. Discussions are opened for approximately 1 hour and the review is concluded by the provision of a summary feedback and conclusions. A written report with a full summary of the Panel's comments and observations is normally issued within 14 days and issued to the primary contact for the referral. If the review is initiated by the Project Team, the MAG will comply with the teams wishes concerning distribution of the report which may result in the report not being placed in the public domain or copied to Planning Officials. If the project Team or the Planning Authority choose to bring the report into the public domain it must be published in its entirety. The process normally takes 5-6 weeks from start to finish.

- 2.20** MAG have been involved in previous planning applications in this Council area. Martin Hare, McAdam Design, Managing Director engaged with MAG for the design of the new Coleraine NRC. He is quoted as saying of his experience with MAG "The involvement of MAG was extremely positive at both Coleraine & Ballymena NRC. As independent professional advisors they provided sound advice which improved the architectural proposals and aided the planning process. I was particularly impressed by their sensitive appreciation of all the project challenges including budget and programme which manifest in their willingness to partner towards agreed solutions which clearly benefited the scheme and end-users. I would have no hesitation in working with MAG on future projects and would recommend them as a valuable mediator in the design development of future projects undertaken by McAdam Design."
- 2.21** The Royal Society of Ulster Architects (RSUA) also offer a design review service. 15 architects have been appointed through an open process to this newly established peer-approved Design Quality Panel. The panel assists in a range of matters including assessing design quality at tender, design input at project inception, undertaking design reviews and awareness training in design quality
- 3.0 Best Practice**
- 3.1** Across the 4 jurisdictions there are similarities in the key components of Design Review Panels. The review panels for Design Commission for Wales, Architecture & Design Scotland, The Design Review England and the Ministerial Advisory Group Northern Ireland have all multi-disciplinary panel members from across the built environment professions. This provides a breadth of expertise to peer review planning applications taking account of the wide spectrum of social, economic and environmental issues of a project.
- 3.2** Each panel undertake a number of stages to their reviews that can be tailored to suit the scale of the project and the stage in the process advice is sought. All Design Review Panels provide a balanced advisory report from discussions that if released to the Planning Authority in full can be taken as a material consideration in the assessment of the project.
- 3.3** Project teams are encouraged to engage at the earliest possible stage of the process however, the process can be tailored dependent on the stage in the planning application process the Design review Panel is engaged.

3.4 At a time of severe pressures on budgets, a key consideration is also costs. There is currently no charge for this service by MAG at this time.

4.0 Recommendation

4.1 IT IS RECOMMENDED that the Planning Committee note the above comparison of design reviews across the 4 jurisdictions, the breadth of expertise of the multi-disciplinary panel members from across the built environment professions, the zero cost for the advisory service provided by the Ministerial Advisory Group (MAG) and agrees to engage with MAG on design reviews where the Head of Planning considers it beneficial to the planning process.