

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 17 March 2021
	Adjourned Annual Council		Thursday 20 May 2021
Subject:	Proposed changes to the constitution in relation to Planning Committee		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Cabinet Member Planning and Building Control		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary: It is proposed to change the constitution in relation to the exercise of the Council's planning powers in two key areas.

Changes are proposed to clarify what matters are delegated to Planning Committee to make sure that the more significant types of applications are reported to Committee and those which are more routine are not reported to Committee. This will result in the more efficient management of Planning Services' workload.

Minor changes are also proposed to when petitions are submitted and to the public speaking process.

Recommendations:

(1) that Council are asked to approve the proposed changes to matters which are delegated to Planning Committee and matters which will not be determined by Planning Committee as set out in Table 1 and reflected in the revised wording set out in Figure 1

(2) that Council are asked to approve the proposed changes to the public speaking process as set out in section 3 of the report.

Reasons for the Recommendations:

It is considered that the proposed changes would clarify those applications which are reported to Planning Committee. The minor changes proposed to public speaking at Committee would make the process more efficient, transparent and fair.

Alternative Options Considered and Rejected: (including any Risk Implications)

The first proposal is to clarify what already happens. The only alternative is to retain the current wording which has been the source of some confusion.

The second proposal seeks minor improvements to the process of speaking at Committee and the only alternative is to stick with the current approach.

What will it cost and how will it be financed?

(A) Revenue Costs

It is not expected that the changes will result in any change to costs.

(B) Capital Costs

None

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): None
Legal Implications:
Equality Implications: There are no equality implications.

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: The proposals give applicants an opportunity to explain any technical proposals at the discretion of the Chair of Planning Committee
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD 6339/21) and the Chief Legal and Democratic Officer (LD 4440/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Not applicable

Implementation Date for the Decision

Immediately following the Council meeting.

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Appendices:

There are no appendices to this report

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

1.1 It is proposed to change the constitution in relation to the exercise of the Council's planning powers in the following areas:

- matters which are delegated to Planning Committee and matters which will not be determined by Planning Committee
- minor amendments to the public speaking process.

2. Matters which are delegated to Planning Committee and matters which will not be determined by Planning Committee

2.1 The reason for proposing changes to what is delegated to Planning Committee is to make sure that the more significant types of applications are reported to Committee and those which are more routine, less contentious or where there is a tight statutory timescale for determination are not reported to Committee. This will enable more efficient management of the Planning Services' workload and promote timely decisions.

2.2 The current wording has allowed some ambiguity in what should be delegated to Planning Committee and what will not be determined by Planning Committee. The term 'planning application' is used in the constitution but this is capable of being defined in different ways. The proposed changes list clearly those kinds of applications which would not be determined by Planning Committee but will be delegated to the Chief Planning Officer). These include those which are more minor in nature, for example Certificates of Lawfulness, approval or variation of conditions, and advertisement consent. A full list is set out in Table 1 below.

2.3 The proposed changes also make clear that applications which require an Environmental Impact Assessment (and which are therefore likely to be contentious) will be reported to Planning Committee.

2.4 The proposed changes in Table 1 set out:

- the existing situation
- what is proposed, and
- the reason for the change.

2.5 The implications of these changes for the wording of the constitution are set out in Figure 1 which immediately follows Table 1.

TABLE 1

DELEGATION TO PLANNING COMMITTEE AND WHAT WILL NOT BE DETERMINED BY PLANNING COMMITTEE : TABLE SHOWS WHAT EXISTS CURRENTLY, WHAT IS PROPOSED AND THE REASON FOR THE SUGGESTED CHANGE

(Chapter 7, paragraphs 22 & 23)

Existing	Proposed	Reason
22(a) – currently members can call in application by written request	Amended to require receipt of call in within 21 days of neighbour notification letter. Must be done on agreed template. Now 22(c)	Improved certainty to process for all parties including applicants.
22(b) – requires 5 objections on major applications to go to committee	Amended to refer to “representations” where this aligns with the officer recommendation.	Addresses anomaly where officers can delegate refusal of a well-supported scheme. Ensures consistency and fairness in decision making.
22(d) – where an application raises an issue of principle	Now reverts to 22(f) and rebranded to allow discretion to Chief Planning Officer where application requires more public debate.	Gives CPO more flexibility to bring applications that would benefit from wider debate.
23 (b) – applications subject to written request or petition, and officer recommendation in line with request or petition	Now reverts to 23(a).	Greater certainty for officers.
23 (c) – applications for phone masts and use of Urgent Referrals	Now covered by 23 (g) which covers all ‘prior approval’ applications.	Prior approval is permission in principle and applications must be determined in a timely manner.
New	New paragraph 22(a) for planning applications requiring Environmental Impact Assessment.	Enables Members to make decisions on applications of wider environmental significance.
New	New paragraph 23(b) confirming householder applications will go to Committee if objection received and subject to written request.	Ensures democratic process, but limits the need for random call-ins just for political benefit.
New	Paragraphs 23 (d), (e), (f), (g), (h), (i) and (j) to clarify all other forms of application NOT to be determined by Planning Committee regardless of written	Committee can concentrate on more significant forms of development, improving performance of Service overall.

	request.	
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FIGURE 1

HOW THE CONSTITUTION WOULD READ IF THE CHANGES ARE AGREED – CHAPTER 7, PARAGRAPHS 22 & 23

PLANNING COMMITTEE

22 Determination of applications comprising:

- a) planning applications for EIA (Environmental Impact Assessment) development
- b) major planning applications¹ which are the subject of five or more representations on planning grounds (Section 70 of the Town and Country Planning Act 1990), except where the application is being recommended for determination by officers in line with those representations
- c) planning applications which are subject of a formal written request² from a Council Member or are the subject of a petition endorsed by a Council Member (except as set out in paragraph 23 below)
- d) a material departure from the development plan
- e) planning applications for their own private development made by serving Councillors or Senior Officers at Head of Service level or above or any member of staff of Planning Services
- f) any application at the Chief Planning Officer's discretion which is considered to require more formal public debate.

23 The following applications will not be considered by the Planning Committee irrespective of any Member's written request, unless otherwise stated:

- a) Any planning application which is subject to a written request by a Council Member, or which is the subject of a petition endorsed by a Council member, but which is to be recommended for approval or refusal by the Chief Planning Officer in line either with the view of the Council Member who made the written request or the wish of the petitioner
- b) Applications for householder development³, unless objection has been received from one or more adjoining neighbours and a written request has been received from a Council Member under paragraph 22(c) above
- c) Applications for Certificates of Proposed or Existing Lawfulness
- d) Applications for advertisement consent
- e) Applications for 'relevant demolition' in a conservation area
- f) Applications for Listed Building Consent and other heritage consents
- g) Applications made under the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any subsequent order revoking or re-enacting said Order

¹ 'major planning applications' for the purpose of the above comprise

- a) 10 or more dwellings, or the site area is 0.5 hectares or more where the number of dwellings is not specified
- b) new floor space (other than changes of use) of 1000 sq. metres or more, or the site area is 1 hectare or more where the floorspace involved is not specified

² 'formal written request' comprises a template to be completed in full (including the reason for the request) and submitted to the Chief Planning officer within 21 days of the date on which neighbours are notified.

³ Householder developments are defined as those within the curtilage of a dwellinghouse which require an application for planning permission and are not a change of use. Included in householder developments are extensions, conservatories, loft conversions, dormer windows, alterations, garages, car ports or outbuildings, swimming pools, walls, fences, domestic vehicular accesses including footway crossovers, porches and satellite dishes.

- h) Applications for the removal, variation or approval of planning conditions subject to paragraph 22(f) above
- i) Applications for non-material amendments
- j) Applications for works under TPO or for tree works in Conservation Areas.

3. The public speaking process

3.1 Three minor amendments are sought to the public speaking process:

- to clarify that petitions should be submitted within the notification period of an application: this is not specified at the moment and can cause problems with petitions being submitted even after the agenda has been published
- to enable the applicant or agent to speak even if the petitioner fails to appear: currently an applicant/ agent can only speak in response to the petitioner; sometimes the petitioner fails to turn up and the applicant or agent can travel a long way prepared to speak on behalf of the application, and is deprived of this opportunity at the last minute
- to allow the applicant or agent to speak for up to 5 minutes at the discretion of the Chair of Planning Committee: it may be helpful for Members to be able to hear the viewpoint of an applicant and to be able to ask questions (e.g. applications of a complex or technical nature), even if there is no objection to the scheme for the applicant to respond to.

4. CONCLUSION

4.1 This report recommends two sets of proposed changes to the constitution in relation to the exercise of the Council's planning powers.

4.2 The first set of changes aims to clarify what matters are delegated to Planning Committee and those matters which will not be determined by Planning Committee. The focus is on making sure that the more significant types of applications are reported to Committee and those which are more routine, less contentious or where there is a tight statutory timescale are determined by the Chief Planning Officer. This will assist in offering an efficient planning service and in meeting statutory timescales for making decisions.

4.3 The second set of changes are minor amendments to the public speaking process at Planning Committee. These would make clear the date by which any petition should be submitted, enable an applicant or agent to respond even if the petitioner fails to show up, and would enable the applicant / agent to speak at Committee at the Chair's discretion.

4.4 The proposed changes would bring greater clarity to what is determined by Planning Committee and to submitting a petition, and greater fairness and transparency to the process of speaking at Committee.