

PLANNING COMMITTEE

13th MARCH 2014

REPORT OF HEAD OF REGULATORY SERVICES

REVIEW OF PLANNING COMMITTEE PROCEDURES AND PRACTICES

1.0 PURPOSE OF REPORT

- 1.1 To invite the Committee to review adopted procedures for site inspections and speakers and to seek Members agreement for recommending changes to Planning Committee procedures and practices to help improve the quality of decision making.

2.0 RECOMMENDATIONS

2.1 Members agree that :

- **The proposed changes to the Council's Constitution in paragraphs 3.9, 3.13 and 3.16 are recommended to Governance Committee .**
- **Customer feedback forms are introduced as proposed in paragraph 3.20.**

3.0 KEY ISSUES

- 3.1 Planning decisions can be controversial. It is essential that they are seen to be fair, impartial and transparent. The process for the determination of applications must avoid any suggestions that either those making the decisions were biased or that the decision itself was unlawful ,irrational or procedurally improper.
- 3.2 Guidance on probity and decision making is provided in the Local Government Association/Planning Advisory Service (LGA/PAS) "Probity in Planning " (2009). The updated version which was published in April 2013 states that " Every council should regularly review the way in which it conducts its planning business".
- 3.3 This report considers two key parts of the process where review is necessary because current procedures need to be reassessed to ensure that decision making is seen to be fair, impartial and transparent. Those procedures are committee site inspections and public speaking at committee.
- 3.4 It is also noted that some aspects of the Committee experience are not especially customer focussed and could be managed better. This is also addressed below.

COMMITTEE SITE INSPECTIONS

- 3.5 Committee site inspections, particularly where contentious development is proposed, must follow a sound approach .Otherwise it can leave the Council open to the accusation that such visits are arbitrary and unfair or a lobbying device. A protocol setting out the arrangements for Committee site inspections encourages consistency and transparency of process.
- 3.6 The purpose of the site inspection should be to help understand the setting and likely impact of a proposed development ,it is not an appropriate time to hear the representations of interested parties or to consider the merits of the proposal. By inviting the participation of third parties in the inspection the Council's current protocol does not encourage consistency ,fairness or transparency of process.

- 3.7 For instance, allowing an interested party (whether applicant, objector or Parish Council) to attend and to make unrecorded comments on the merits of a proposed development is not equitable or transparent. All discussions about the merits of an application should be heard in the Committee meeting, where all parties have an opportunity to participate and listen to the debate. At the Committee meeting all Members will be present and the outcome is formally decided and recorded in a public forum.
- 3.8 An amended section of the Constitution (Appendix 1) together with an amended detailed protocol (Appendix 2) propose that site inspections should be unaccompanied, with only Members of the Planning Committee and officers present. It also reiterates that the merits of a proposal should not be discussed on site and provides advice on visits to contentious sites where there may be considerable public interest. This follows best practice and the advice in the latest LGA/PAS guidance.

PUBLIC SPEAKING AT COMMITTEE

- 3.9 Public speaking at Committee helps to enhance public confidence in the process. It is an established procedure which is well used by interested parties.
- 3.10 The procedure generally works well, although there are two aspects of public speaking which create some concerns and are not always in the best interests of making good quality decisions are how the large numbers who request to speak on some applications are managed and the questioning of speakers.
- 3.11 At present the scheme allows one speaker to address the Committee for up to 3 minutes. The current procedure does encourage groups of objectors or supporters to choose a representative to speak on their behalf, but if this is not possible individuals may speak for up to 3 minutes. However, on occasion the Committee has been sympathetic to requests for a greater number of speakers in complex cases and in these circumstances they should provide details of the different aspects of the scheme which they intend to address before being given permission to speak. It is necessary to extend a similar opportunity for applicants/supporters, in the interest of 'natural justice'.
- 3.12 In 2013 the procedure was developed to allow Members to – through the Chair – ask speakers questions for clarification. However, whilst occasionally helpful, there have been examples of this being abused and speakers developing their responses into an opportunity to reassert their position. In addition, there have been examples of questions being accepted as challenges to statements made, rather than as for the purposes of clarification. When this provision was introduced, it was agreed that its effectiveness and value would be reviewed after a period of implementation.
- 3.13 It is considered that the problems experienced have outweighed the value of the opportunity and therefore that 'questions for clarification' should be omitted from the scheme.
- 3.14 Concern has also been raised at the frequency which additional speakers have been requested and accepted. However, these arrangements have taken place outside the scheme (i.e. following the suspension of procedural rules ("standing orders") with the agreement of the Committee). It is recognised that there may occasionally be circumstances that merit additional speakers and the option of suspending procedural rules will always remain to accommodate these circumstances. However, Members may wish to consider whether there are criteria developed to apply in these circumstances, and reflect on the recent experience of allowing numerous speakers. For these reasons it is considered that the agreed scheme does not require amendment in terms of the number of speakers.

CUSTOMER EXPERIENCE AT PLANNING COMMITTEE

- 3.15 There have been a number of recent occasions when the Chamber has been unable to accommodate all of those attending the committee meeting and it has been necessary to provide an enlarged Chamber by also using the adjoining room. However ,it has not always been possible to provide sufficient seating ,with the public sometimes having to stand behind the barrier which divides the rooms.
- 3.16 The sound system has not always had the capacity to allow the whole audience to follow proceedings in the enlarged room.
- 3.17 The Committee meeting is the public face of Planning and while these meetings are not common the current arrangements do not enhance the reputation of the Council.
- 3.18 To ensure that any changes to procedures at Committee meetings have regard to the needs and expectations of those in attendance it is suggested that a customer feedback form is used to gather comments. The feedback would be related to the whole Committee process, such as notification of the meeting, comments on the facilities, as well as the experience of attending and participating in the meeting itself. This would be used for six meetings commencing in May 2014 and the comments received used to help inform future improvements.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 The procedures for decision making are set out in the Council's Constitution . While this is subject to annual review, it is a living document and there are times when amendments are necessary to enable the organisation to function efficiently. In those cases proposed changes are reported to Governance Committee for consideration before a final decision is made by the full Council. There is an opportunity to present the Committee's recommendations to a meeting of the Governance Committee on 2nd April 2014, with a view to presenting any agreed changes to Full Council at the AGM in May.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 There are no direct financial or other resource implications. Although it should be noted that improper decisions may be open to challenge with possible associated financial costs.
- 5.2 Some of the recent experiences have been the source of complaints which have been extremely demanding in terms of staff and member time.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 The amendments proposed to the constitution in this report would have to be reported to and considered by Governance Committee.
- 6.2 Note that improper decisions may be open to challenge.

7.0 COMMUNITY SAFETY

- 7.2 There are no community safety issues arising directly from this report.

8.0 EQUALITIES

8.1 There are no equalities issues arising directly from this report.

9.0 RISKS

9.1 The risks associated with this report are as follows

Probability
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Very High A				
High B				
Significant C				
Low D		2,3		
Very Low E		1		
Almost Impossible F				
	IV Neg- ligible	III Marg- inal	II Critical	I Catast- rophic

→
Impact

Risk No.	Description
1	Decision may be challenged.
2	Perception that applicant/landowner has advantage at site inspections
3	Misleading content by speakers goes unchallenged

10.0 CLIMATE CHANGE

10.1 There are no climate change issues arising from this report.

11.0 CONSULTATION

11.1 This report has not been subject to any consultation.

12.0 WARDS AFFECTED

12.1 Decisions made by the Planning Committee affect all wards.

Contact Officer P Reid, Regulatory Services Manager

Date: 5th March 2014

- Appendices :
1. Proposed changes to Site Inspections section (para 11) of Constitution
 2. Proposed changes to Protocol for the Requesting and Conduct of Site Inspections

Background Papers: Council 's Constitution
LGA/PAS " Probity in Planning " (2009 & 2013)

Reference : X : Committees\