

Report to Planning Committee 9 June 2022

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Report Summary	
Report Title	<i>Proposals for New Governance Arrangements – Planning Matters</i>
Purpose of Report	<i>To seek Members’ approval of the Officer Scheme of Delegation in relation to Planning Development, Protocol for Members on Dealing with Planning Matters and Development Consultation Forum arrangements that will be the responsibility of the Planning Committee following the adoption of the revised governance arrangements on 18 May 2022</i>
Recommendations	<p><i>That Planning Committee</i></p> <ul style="list-style-type: none"> <i>a) adopt the Planning Committee Scheme of Delegation to Officers</i> <i>b) adopt the Protocol for Members on Dealing with Planning Matters</i> <i>c) adopt the contents of the Development Consultation Forums, Guidance for Developers and Public</i>

1.0 Background

Due to the change in governance arrangements from a Committee to a Cabinet structure, there is a requirement in accordance with:

- Part C – Responsibility for Functions, Section 1 “To adopt a scheme of delegation to Officers, including the ability for District Councillors to reserve matters to Committee in circumstances prescribed by the scheme; the scheme to be reviewed as necessary and at least annually” and*
- “To adopt a Protocol for Planning Committee which must take Probity in Planning or equivalent national guidance into account”.*

Part D, paragraph 6.7 and Part H, Core Principle A also have details relating to the conduct and/or rules relating to the rules for Members across the Council as well as those sitting on Planning Committee.

2.0 Proposal/Options Considered and Reasons for Recommendation

A Scheme of Delegation (SoD) for Officers has been prepared, Appendix A. This sets out details for those applications which will be presented to Planning Committee, rules for referral of applications to Committee by Members as well as applications that are delegated to Officers. As Members of the Planning Committee will be aware, the Scheme of Delegation has been

reviewed annually following a more significant review undertaken in 2019. The attached Scheme of Delegation is broadly in line with that considered and adopted by Full Council in 2021, notwithstanding it is laid out differently. There are one or two differences, which seek to take account of concerns raised throughout the previous 12-months by Members in relation to referrals as well as ensuring all application types are referenced, whilst providing flexibility for any new types of applications that might be 'introduced' as a result of any new legislation that might come into force e.g. Permission in Principle in recent years. The SoD also provides delegation arrangements for other functions of the Planning Department including enforcement – issuing of notices, prosecutions etc. The SoD needs to be read in conjunction with Part C of the Constitution, as they together, form the remit and terms of reference for decision making.

To assist with understanding the more key changes, these are detailed in the table below:

2021 Scheme of Delegation	2022 Scheme of Delegation
<p>Where a major or minor (proposing between 1 and 9 dwellings) application is made under Section 73 of the Act to vary or remove planning conditions these will only be considered by the Planning Committee where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed.</p>	<p><u>Major Developments (S73)</u> - Major applications made under Section 73 of the Act where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed where the previous application was dealt with by Planning Committee.</p> <p><u>Minor Developments (S73)</u> - Proposals of 1 to 9 dwellings under Section 73 of the Act, where the application was previously dealt with by Planning Committee <u>and</u> the Officer recommendation is one of approval contrary to the views of the host Town or Parish Council (or Parish Meeting) <u>and</u> where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed and the relevant Ward Member(s) has requested the application be determined by Planning Committee within 5 working days of the notification of the recommendation by Officers. The request should include:</p> <ul style="list-style-type: none"> • a statement outlining material planning reasons why the proposal needs to be considered by Committee; and • a list of related Development Plan policies (or part of).
<p>New</p>	<p>Should amendments be received including plans/documents that are subject to re-consultation/notification which result in new material planning impacts previously notified of, the relevant Ward Member or adjoining Ward Member may refer the application to Planning Committee within the timescales given in the notification for a</p>

	response and subject to all of the bullet points set out within 1.35g).
New	In consultation with the Planning Committee Chairman and Vice Chairman, issue a grant of permission without a Section 106 agreement first being signed, where the original Planning Committee resolution requires the prior completion of a Section 106 legal agreement or payment on Community Infrastructure Levy, but where a consultee who required the agreement no longer considers an agreement is necessary and a planning condition can be used to cover their requirements.
All major (defined as 10 or more dwellings, where new floor space would be 1,000m ² or greater or have a site area of 1 hectare or greater) applications where: <ul style="list-style-type: none"> • The recommendation is contrary to the response received from the host Town or Parish Council or Parish Meeting, provided that such a response is based on material planning considerations¹ relevant to that application unless the recommendation is for refusal based on a recommendation of refusal by The Environment Agency's representations or Highways England direct refusal of an application regardless of whether or not other consultees support the application; or • The recommendation is one of approval, contrary to the response received from a statutory consultee. 	<u>Major Developments</u> - All major (defined as 10 or more dwellings, where new floor space would be 1,000m ² or greater or have a site area of 1 hectare or greater) applications where: <ul style="list-style-type: none"> • The recommendation is contrary to the response received from the Town or Parish Council or Parish Meeting, provided that such a response is based on material planning considerations¹ relevant to that application unless the recommendation is for refusal based on a response by a Statutory Consultee (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015; or • The recommendation is one of approval, contrary to the response received from a Statutory Consultee (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.

The Protocol for Members on Dealing with Planning Matters (Appendix 2) has also been updated. The majority of changes relate to change in names, for example from committee to Planning Committee and Development Control to Planning Development. However there are some more nuanced changes, as well as recommendation relating to Development Consultation Forum's.

More nuanced changes comprise:

- *the requirement for Members sitting on Planning Committee to attend training on planning a minimum of once annually (after the initial training) (para.3.7);*
- *timescale by which the local Ward Member , Parish Council representative or member from a neighbouring council needs to register to speak to an application (paras. 11.4, 11.8 and 11.9);*

- *reasons for any approval (as well as refusal) must be justified against the development plan and any other material considerations (para. 12.2);*
- *detailed minutes of the Committee's reasons for a decision contrary to Officer recommendation shall be made (para. 12.6);*
- *applications refused contrary to the Officer recommendation and subsequently appealed should be defended by either and/or both the proposing and seconding Member or any other Member willing to defend the Council's decision (para. 12.8);*
- *clarification regarding site visits undertaken by Planning Committee Members on their own that these should be undertaken from public vantage points and requests by either the applicant or neighbour to view from their premise should be resisted (para. 13.8); and*
- *a review of decisions should be undertaken biennially to assess the quality of decisions (as opposed to annually).*

One of the more significant changes is the suggested introduction of Development Consultation Forums. Members will be aware that, on occasions, developers may wish to present their schemes to Members for their awareness in order to respond to the Council's adopted Statement of Community Involvement. Historically these have been to Planning Committee Members with Officers in attendance. However, it is suggested that for large-scale and/or contentious developments that these are held with Members of NSDC, Town/Parish Councillors (as appropriate to the development although all will be welcome) as well as with members of the public in attendance. Agreement for holding the meetings would be with the Chairman, Vice-Chairman of Planning Committee and Director for Planning & Growth or the Business Manager – Planning Development. The meetings would be publicised via a site notice as well as email to all District Councillors and respective Town/Parish Council/Meeting and anyone interested would be able to attend. The meeting would be chaired by an agreed person e.g. Planning Committee Chairman or Senior Officer of the Planning Development team to ensure it is held in an appropriate and fair manner. Such meetings would not be for any decision making and observations/comments at the meeting (as with all pre-application advice) would not fetter the Council's, as Local Planning Authority, decision making authority. Minutes of the meeting would be taken and publicised ensuring that discussions are open and transparent. The developer would hopefully take account of observations raised but would not be required to amend their scheme. Details of how such Forum's would be held is provided within Appendix 3.

Due to the scale of developments the DCFs are aimed towards – very large and/or contentious, the number of meetings that might be held each year is expected to be limited to a small handful. However, as with any new procedure that is implemented, a review will be undertaken shortly after 12 months if agreed. It is hoped that having these meetings where all are welcome will result in, as well as transparency, better schemes being submitted.

3.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Appendix 1 – Planning Committee Scheme of Delegation to Officers

Appendix 2 – Protocol for Members on Dealing with Planning Matters

Appendix 3 – Development Consultation Forums, Guidance for Developers and Public