

TO: PLANNING COMMITTEE – 6 DECEMBER 2004

SUBJECT: REVIEW OF PLANNING APPLICATION DECISION MAKING PROCESS

FROM: HEAD OF PLANNING

1. PURPOSE OF REPORT

- 1.1 To review the various changes to the planning application decision making process introduced in April 2004.

2. BACKGROUND

- 2.1 Planning Committee considered a report on the planning application decision making process on 11th November 2003, covering changes to:-

- the delegation agreement
- public speaking rights
- the Committee site inspection process.

- 2.2 The Committee agreed to a number of changes and the issues were then subject of a report to Standards Committee in December prior to ratification by full Council in January 2004. The inclusion of Standards Committee in the process resulted in a change to the revised delegation agreement agreed by Planning Committee.

2.3 Delegation Agreement

The original intention accepted by Planning Committee in Nov 2003 was for a delegation agreement that required Parish and Town Councils, where they raised objection, (and the Head of Planning's view was that permission could be granted) to request Ward Councillors to refer applications to Planning Committee rather than such cases being automatically referred. In this way, Ward Councillors would act as a "filter" and request referral only on cases requiring debate/wider discussion. However, Standards Committee amended this provision and retained the facility of automatic referral to Planning Committee in the event of an objection being made by a local Council.

- 2.4 The current situation remains of fairly lengthy (especially the Part 2 Sections) agendas which in practice result in a three-way split of cases at the meeting of:-

- Principal Items
- Part II Cases (usually with slides) which have public speakers and are subject of discussion.
- Part II Cases which have no public speakers, result in no discussion and are dealt with very quickly

The variable treatment of the Part II cases does seem confusing to Members of public present with the cases where there are no speakers/images or discussion being seemingly being given very cursory attention and the public often not understanding the eventual composite resolution to approve Part II applications.

In addition, a number of cases are subject to amendment to endeavour to overcome concerns of local councils and, overall, there have been a significant number of part 2 cases with no discussion of public speaking

The view of the Working party was that there was merit in a delegation agreement as originally envisaged which would reduce the overall number of cases, end the two part agenda and would provide a common Principal item type format for all reports with images for each item.

For cases where a local council had raised objection and but for this fact a delegated decision could be issued, the case officer would in all such cases be required to contact the ward member(s) and advise them of the issues raised and the planning response to them so that the ward member could then decide whether referral to committee was necessary.

2.5 In addition, the working party agreed that if plans are amended following an objection by a local Council and, in the opinion of the authorised officer, the amendments have satisfactorily addressed the points of concern raised by the local Council, a delegated decision could be issued rather than hold up the application for a future Committee referral.

2.6 In relation to written letters of support for a particular planning application, it was agreed that the wording of the current agreement should be clarified so that it is made clear that where 10 or more letters of support have been received (or a petition of support with 10 or more signatures) then that application would be referred to committee for decision if the Head of Planning considered it should be refused.

2.7 **Public Speaking**

The feedback received suggests that this is a popular addition to the decision making process and is perceived as an extension of democratic rights. Since 26th April 2004 when speaking rights were introduced, there have been 10 Planning Committees where public speaking rights have applied. Appendix A of the report details the lengths of these 10 meetings, compared to the 10 meetings prior to the introduction of public speaking rights. From this it can be seen that the overall time spent for the two sets of 10 meetings has not changed significantly, although there were less items on the agenda for the second set of meetings primarily due to the increased delegation brought about by the changes introduced in April.

2.8 A number of detailed issues have arisen with the operation of the public speaking arrangements from feedback received over the last six months and from the results of a questionnaire survey sent out by Members' Services. The main points of concern discussed by the working party related to:-

- Should public speakers have to re-register on the day of the meeting which requires them to arrive from 5 15p.m. onwards at the Council Chamber?
- Should the 3 minute limit for speakers be extended?
- Should applicants/agents have a right to address the Committee if an application is being recommended for refusal?
- Should speaking rights be introduced for enforcement items?

- Should Ward Councillors rights to address the Committee remain as at present (ie no time limit)?
- Should Council Procedure Rules 23(3) and 23(5) be amended so that it does not conflict with the spirit of the Public Speaking Procedure rule?

In relation to the potential for time restricting Ward Councillors, Members' Services have advised the working party after the meeting, via e-mail, that Council Procedure Rule 11 in the Constitution – Rules of Debate for council meetings (4) - Content and Length of Speeches (b) reads “no speech will exceed 10 minutes except by the consent of the Council”. This Committee will need to decide if they wish to recommend an amendment this procedure rule to exclude Planning Committee so that there is no time restriction on any representation to the meeting by either a member of the Committee or by a Ward Councillor. Although if the Committee is minded to do this they would need to express the reasons why this should be the case for Planning Committee and not Council, the Executive, or any other Committee such as Regulatory who regularly have Ward Councillors addressing their meetings.

With regard to the question of allowing Ward Councillors to speak at meetings it was recommended to the Working Party that this Committee proposes to Council that the above Council Procedure rules are amended to exclude Planning Committee, for the following reasons:

Council Procedure Rules 23(3) states “any members wishing to attend meetings of the Executive or committees to speak on matters relating to his/her ward will be entitled to do so” and the public speaking procedure at Planning Committee meetings reads “the right of ward members to address the Committee will remain as at present”. This would indicate that Ward Councillors are allowed to address the Planning Committee on a matter which affects their ward without having to register to speak.

However we believe if a Councillor was to use this rule it would not be in keeping with the spirit of the public speaking procedure which was written to ensure equality between the parties addressing the committee. There could be a situation where the applicant contacts the office at the close of registering to speak and is informed there is no one intending to speak against their application. He does not therefore attend the meeting but finds out that the Ward Councillor spoke against the application.

Council Procedure Rule 23(5) reads: “Any members wishing to attend meetings of the Executive or committees of which they are not members whether such meetings are open to the public and press or not, will be entitled to do so but without any right to take part in the proceedings except under Procedure Rule 23 (1) (2) (3) or (4) or by leave of the Leader or Chair which will not be unreasonably withheld, subject to such attendance not contravening any legal requirement, the National Code of Local Government Conduct or any local code.”

For the same reasons given to amending Procedure Rule 23(3) if this rule was left as at stated and used by a Councillor it creates an unreasonable precedent for allowing Councillors to address the Committee especially in the view of the problem of the applicant not being aware.”

2.9 In relation to the preceding five points, the working party considered:-

- Members' Services should examine practice elsewhere on whether a "re-registration" requirement is usually followed.
- The three minute limit should remain.
- Applicants/agents should have a speaking right if their application was being recommended for refusal.
- Speaking rights should not be introduced for enforcement cases as if an application were submitted and was recommended for refusal, then an applicant would have a speaking right at that stage.
- Ward Councillors should not be subject to any time limit, although it was not appreciated that the rule in the constitution related to all meetings.
- It was agreed that Council Procedure Rule 23(3) and 23(5) should be amended to remove the conflict between between these procedure rules and the public speaking procedure for Planning Committee
- The Working Party agreed that the procedure that each meeting is a separate meeting and therefore people would need to re register if an application was deferred, however it was also agreed that this would need to be clearly outlined in the procedure and any other guidance issued to people (including ward Councillors) wishing to address the Committee.

2.10 Committee site inspection process

The introduction of public speaking rights has prompted a public response that "obvious" site visits should be scheduled in advance to avoid large numbers of people turning up for the meeting and finding that there is no real debate on the application as a result of the deferment for a site visit, and being advised to re-attend three weeks later either to speak again or hear the debate. (This "prior site visit" process has happened with applications for Coventry Airport and Stoneleigh Park).

2.11 Feedback from other authorities indicates a variety of practice in relation to Members site inspections in relation to whether these are held before or after the Committee Meeting. In some cases, a list of sites for inspection is drawn up at the Chairs agenda briefing meeting, with the visits held in the afternoon immediately before the Committee (eg.Worcester). In this way, the visit would be held after Members have received the relevant agenda papers and therefore in possession of the report containing key issues for consideration, but before the meeting when the application is discussed.

2.12 The advantages of such a system would be:-

- it would be perceived as being more "efficient".
- public speakers would not make what they may regard as a wasted journey to the Town Hall.
- it would help to reduce the decision period on the application.
- it would help to "standardise" days for Committee Site Visits in advance which may be more convenient for Members, Officers and Customers of the D.C. Service. There could, therefore be a regular programme throughout the calendar year, with the possibility of any additional sites not being visited in advance being visited at the next set date (i.e. before the next meeting) if members requested them

- 2.13 The working party considered there was merit in having an advance committee site inspection process with a standardised set of dates in the Council calendar with the visits normally being held on the Saturday before the meeting. The list of sites would be drawn up at the Chairs briefing meeting and circulated to members at the same time as the agenda papers. It was also considered advantageous for a set of criteria for the selection of sites to be visited to be agreed in order to provide a context for this process.
- 2.14 Feedback from local councils on the various changes to the decision making process introduced in April 2004 has highlighted the ending of Parish/Town Council attendance at committee site visits to be of particular concern to them. The working party considered that Ward Councillors should be able to request site inspections and they should also be informed of them so that they could attend as an observer.

3. **POLICY AND BUDGET FRAMEWORK**

This report is essentially a review of changes introduced in April 2004 which relate back to some of the key recommendations in the Best Value Review of the Planning Service. The recommendations do not raise new policy or budgetary issues

4. **RECOMMENDATIONS**

4.1 That this Committees recommends to Council the revised:-

- Scheme of Delegation (Appendix C)
- Public Speaking at Planning Committee Procedure (Appendix D)
- Planning Committee Site Inspection Procedure (Appendix E)

4.2 This Committee recommends to Council that Council Procedure Rule 23(3) and 23(5) are amended as set out below;

23(3) Any members wishing to attend meetings of the Executive or committees to speak on matters relating to their ward will be entitled to do so, excluding Planning Committee where the Ward Councillor will need to register to speak as per the Public Speaking at Planning Committee procedure;

23(5) “Any members wishing to attend meetings of the Executive or committees of which they are not members whether such meetings are open to the public and press or not, will be entitled to do so but without any right to take part in the proceedings except under Procedure Rule 23 (1) (2) (3) or (4) or by leave of the Leader or Chair which will not be unreasonably withheld, subject to such attendance not contravening any legal requirement, the National Code of Local Government Conduct or any local code and excluding Planning Committee where the Ward Councillor will need to register to speak as per the Public Speaking at Planning Committee procedure.”; and

4.3 This Committee agrees that no change be made to Council Procedure Rule 11 (4) (b)

John Edwards
Head of Planning

BACKGROUND PAPERS

Report to Planning Committee on Planning Decision Making Process - November 11th 2003

Report to Standards Committee- December 17th 2003

Areas in District Affected: Whole District

Executive Portfolio Area and Holder: Environment - Margaret Begg

For further information about this report please contact:

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