

**TO: Planning Committee - 11th November 2003**

**SUBJECT: Planning Application Decision Making Process.**

**FROM: Head of Planning and Engineering**

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**1. BACKGROUND**

- 1.1. The Audit Commission Best Value Inspection report into Planning Services at Warwick District Council was issued in May 2003. The report contained a number of recommendations in relation to the decision making process on planning applications, including a requirement that the Council now take action to resolve a number of issues to:

“Improve the decision making process, particularly the speed of determining planning applications by:

- Revising the delegation agreement;
- Revising the Code of Conduct for Councillor site visits;
- Reviewing the Committee process including public speaking, reporting of recommendations and Committee decisions and public accommodation to ensure the process is clear, transparent and accessible to all.

In relation to public speaking rights, this has been considered by Planning Committee on two previous occasions, with the last discussion by Planning Committee on 8<sup>th</sup> January 2003. Public accommodation has been considered in terms of the layout of the Council Chamber and agenda formats are being reviewed in the light of the new software system for development control which has recently been introduced.

- 1.2 Following the consideration of the issue of public speaking by Committee, a Working Party of members was set up prior to the election in May. Members of a reconstituted working party have visited other Planning Authorities where public speaking is in operation during 2003 to view the adopted arrangements elsewhere.
- 1.3 This report sets out possible proposed changes to current procedures in order to meet the requirements of the Best Value Review. A comprehensive set of proposals is put forward as a “package” in order to address the issue of speed of determination of applications and “openness” and “transparency” of decision making, with a consistent approach to public speaking which is currently only possible on those applications subject to committee site visits. The issue of delegation, public speaking rights and site visit protocol are examined in turn.

**2. ISSUES FOR MEMBERS TO CONSIDER**

**Delegation**

- 2.1 The current delegation arrangements have operated since 1999 and on average have resulted in over 70% of planning decisions being made under delegated powers over the four year period. In simple numerical terms, this means that between 4-5,000 delegated decisions on planning applications have been made during that time.
- 2.2 A recent publication by the National Planning Forum highlights the advantages of a Scheme of Delegation and sets out What it is and What it is not as follows:-

## Advantages of a Scheme of Delegation

The benefits of delegation in terms of simplifying and speeding up procedures, minimising costs and freeing up Committee members to concentrate on major or controversial cases are widely recognised. Most councils now make use of delegated powers. Delegation is a positive process that gives benefits not just in terms of streamlining internal procedures but also in terms of speed and improved responsiveness for applicants.

### Delegation:

- Simplifies procedures and speeds up process.
- Minimises costs and improves service delivery within budgetary limits.
- Releases officer resources to focus on other equally important areas of work to achieve service improvement.
- Adheres to best practice advice.
- Eases lengthy unmanageable committees and reforms committee practice.
- Removes applications which illicit no member discussion and evaluation at committee.
- Clarifies the current system and protects member involvement.
- Increases officer performance and quality.

### Delegation is not:

- A process designed to transfer power from elected members to officers.

- 2.3 It is accepted that a successful delegation system requires strong member ownership, with a clear role for Councillors, especially ward members, who are charged with representing their constituents. Experience at many authorities with extensive delegation agreements suggests that opportunities for individual Councillors to be brought into the decision making process have increased. Invariably, with authorities that meet or are close to the Government target of 90% delegation, the delegation schemes in operation allows overriding of objections, with the “quality” of the objection being the key consideration.
- 2.4 The task is to maintain confidence in the decision making process, whilst avoiding the time delay and inefficiency that may be associated with holding back an application where some form of objection had been received for a future committee meeting, especially where the application complies with policy, has been amended to bring it more into line with policy after the receipt of the original objection, or where the objection itself is not based on conflict with established policy or approved guidance.
- 2.5 At Warwick District, a two tier, or more correctly, a three tier system of decision making operates at Committee level i.e.
- Principal Items – all accompanied by visual images of the plans and sites, with officer oral report.
  - Selected Part 2 Items – accompanied by visual images, with officer oral report.
  - Remaining Part 2 Items – No visual images or officer oral report.
- 2.6 This often means that this third category of applications go through “on the nod.” Their inclusion on the agenda requires significant officer time in preparing and checking reports and often means that the period for their determination is taken over the eight week period. The seemingly cursory attention to a high number of Part 2 applications during the Planning Committee proceedings often appears to result in confusion from members of the public who attend the meeting. The need for these items to appear on the agenda is, therefore, questionable.

- 2.7 The view is taken that the current decision making process can be improved, so long as robust measures to ensure confidence in the decision making process are built into any revised agreement.
- 2.8 These measures would be focused on:-
- Determination of applications by officers only where they are in accordance with the policies and guidance which members themselves have decided as the context for decision making.
  - Encouragement of informal member involvement in planning applications in their ward. In practice, this would mean ward members being consulted in writing of every application in their ward, inspection of plans where necessary at Riverside House or at the Connections or via Town Councils/Parish Councils, contact being made with case officers if there are queries on a particular application, and neighbours being informed of their right to contact ward members if they have issues of concern
  - The availability of case officers to meet and discuss with ward members, applicants and objectors to discuss issues of concern in order to assist in fostering the openness of the decision making process
  - Recording of the reasons for decisions on all applications with clear documentation on planning files to record how each case had been assessed and how any objections were considered prior to making of the decision. Each file would thus contain a report detailing the material considerations, the comments received and reasoning behind any delegated decision, readily available for members of the public and elected members to inspect.
- 2.9 It is suggested that ward details are included on all planning application lists to facilitate ward member involvement in applications in their ward and it would also be possible to notify ward members individually by email or letter on receipt of planning applications in their ward. The leaflet sent out with neighbour letters will inform neighbours of their right to contact their ward member about a planning application.
- 2.10 A revised delegation arrangement would mean that committee referrals are not automatically triggered by the existence of locally made objections, currently resulting in agendas of 40-50 cases, but agendas would be likely to be restricted to approx.10-15 more controversial applications, including those cases where members have requested the application be determined by committee. Cases where 10 or more objections have been received would always be referred to Committee for decision.
- 2.11 The essential features of a delegation agreement where objections no longer automatically triggered a committee report would be:-
- Agendas of reduced length.
  - Agendas focussed on major cases where members need to balance competing arguments.
  - **All** cases on the agenda having a full written report in a common format and including a visual and officer presentation (rather than having the three tier system that currently operates i.e. principal items, Part II cases with slides and Part II cases without slides).

A suggested revised delegation agreement is set out as appendix A.

## **Public Speaking Rights**

- 2.13 The Best Value Inspectors have made clear recommendations on the issue of public speaking rights and on this council's practice of allowing public speaking at Committee site visits.

Paragraph 68 of their report states:-

"The Planning Committee does not allow the public (objectors or applicants) to address Councillors before a decision is made. Such a practice is now common in most councils and is welcomed by applicants and objectors who feel they have been listened to, during the decision making process."

Whilst paragraph 71 states:-

"... In respect of Councillor site visits, the practice of allowing applicants and objectors to speak during site visits is not regarded as acceptable practice. Such visits should be solely to enable Councillors to view the site in the same way that the Planning Inspectorate undertakes appeal site visits (with the exception of informal hearings).

- 2.14 This report addresses both of the above issues and recommends the introduction of a public speaking regime at Warwick District which would remove the anomaly of speaking rights only being available on applications subject to a committee site visit.
- 2.15 Appendix B sets out the core details of how a public speaking regime would operate. The scheme would require all persons who had written in about the application to be informed by letter of the inclusion of the application they had written in about in the agenda for the meeting concerned. These letters would be sent out concurrently with the despatch of the agenda 5 clear working days before the meeting, requiring those who wished to speak to register their interest by no later than midday on the working day preceding the meeting.

## **Site Visit Procedures**

- 2.16 The Best Value Inspection report is quite clear that public speaking at Committee site visits represents unacceptable practice. The introduction of comprehensive public speaking rights in the Council Chamber will enable this "partial" system of rights to be discontinued. This should help to refocus the primary objective of site visits set out in the Council's current approved procedure which is for members to familiarise themselves with the relevant features of the site and its surroundings.
- 2.17 A revised Site Visit Procedure Note, omitting reference to the rights of applicants or objectors to speak at the site visit is attached as Appendix C.

## **3. CONCLUSIONS**

- 3.1 The introduction of public speaking rights will achieve a key recommendation of the Best Value Inspection report. Implementation of this initiative will represent a positive indication of the Council's intention to pursue a key outcome of the Best Value process prior to the Comprehensive Performance Assessment in 2004. This is fully in line with one of the key objectives of the Councils corporate strategy CO1 to Manage our services openly, effectively and efficiently where a priority is to Involve partners and the public in Council business to help inform decision making.
- 3.2 A comprehensive public speaking facility will represent an improvement on the current facility for community involvement, given the "partial" system of speaking rights only being applicable on Committee site visits. This should help to refocus the objective of site visits in line with their currently expressed purpose.

3.3 A revised delegation scheme based on assessment of applications in accordance with approved policy and guidance, recording of reasons for all decisions on the application file and the right of any member of the Council to require any application to be referred to Committee will represent a transparent and accountable decision making process.

3.4 Ward members will play a key part in the decision making process which will be an enhancement of their role

3.5 The proposed changes in the above three areas are interdependent. The key outcomes are Committee agendas focussed on cases which raise issues requiring debate, enhanced rights for the public to becoming involved in the decision making process and an enhanced role for Ward Members in the determination of applications.

3.6 In terms of resources, likely increased costs will be as a result of additional staff time associated with longer meetings and handling queries about public speaking, provision of security at meetings, and introduction of dedicated telephone line for those wishing to register to speak. It is not envisaged that a bid for additional resources is required at this stage to introduce the arrangements, but a review of the impact of the changes will be needed after a six month period to assess both their effectiveness and impact on resources. It is envisaged that, subject to full council approval, the new procedures will take effect from April 2004 with the first Planning Committee meeting when public speaking will be introduced being April 26<sup>th</sup> 2004. In the interim period between January and April, it is suggested that seminars be arranged for ward members and Parish/Town Councils to explain the implications of the new procedures.

#### 4. **RECOMMENDATION**

4.1 That members recommend to Standards Committee and full Council the revised procedures for delegation, public speaking and committee site visit procedure as set out in the attached appendices.

### **BACKGROUND PAPERS**

INSPECTION REPORT INTO PLANNING SERVICES – AUDIT COMMISSION MAY 2003

Report to Planning Committee on Public Speaking - 8<sup>th</sup> January 2003

**For further information about this report please contact:**

**Contact Officer:** John Edwards  
**Tel:** 01926 -456541

**E-mail:** John.Edwards@warwickdc.gov.uk

**Areas in District  
Affected:**

**Whole district**

## **APPENDIX A**

### **Revised Scheme of Delegation**

1. Authority to determine all applications submitted to Warwick District Council as required by the Town and Country Planning Act 1990 (as amended), Town and Country Planning (Control of Advertisement) Regulations 1992, and Planning (Listed Buildings and Conservation Areas) Regulations 1990, with the exception of the following:-
  - Applications where a written request is received from a member of Warwick District Council that Committee referral is required within the specified consultation period i.e. 21 days.
  - Applications where 10 or more written objections or a petition with 10 or more signatures has been received, where the recommendation is contrary to the representations that have been made.
  - Application which would represent a material departure from any proposal within the Development Plan i.e. the Warwickshire Structure Plan and Warwick District Local Plan, or any approved Supplementary Planning Guidance..
  - Applications known to be submitted by or on behalf of a Councillor, employee or former employee of the Council, or the spouse/partner of any such person.
  - Applications submitted by Warwick District Council or Warwickshire County Council, except for approval of routine minor developments.
  - Applications which are subject to a S106 Agreement.
  - Where applications are to be refused and enforcement action is being recommended.
  - Applications where an Environmental Impact Assessment has been provided or requested.
  - Any application which raises significant issues such that in the opinion of the Head of Planning, it would be prudent to refer the application to Planning Committee for decision.

**Public speaking at Planning Committee – Draft Procedures**

**Who can speak**

People wishing to speak will fall into four categories, these are:-

- Parish/Town Councils
- Objectors
- Applicants/Supporters
- Ward Councillors

To ensure equity, applicants and supporters will only be allowed to address the Committee if objectors have registered to speak.

The right of Ward members to address the Committee will remain as at present.

There will be a three minute time period for each category. Ward members will be subject to the same time restriction as other speakers. If there is more than one person registered in any category, the three minutes will be split between those persons having registered to speak. However, they will be encouraged to liaise with each other and nominate one speaker.

**Registering to speak**

People wishing to speak must contact Members' Services in writing, by telephone or e-mail by 12 noon the **working** day before the meeting (if a letter is delivered by hand to reception please allow 1 working day for it to reach Members' Services). A dedicated telephone line could be made available to register a public speaking request. Persons wishing to speak must provide the following information.:-

Name

Home address and contact phone number.

Which category they fall within

Which application they want to speak on (including application number)

Members' Services will inform them that their contact details will be made public before the meeting

A list of those who had registered an interest to speak will be available for all Members of the Committee, alongside the addendum papers for the meeting.

**Summary of procedure for each meeting**

1. All applications will normally be dealt with in the order they appear on the agenda.
2. The Planning Officer will introduce the items, giving any updates since the preparation of the report.
3. The names of those persons having registered to speak will then be announced by the Chair, in the order of: Parish Councils, Objectors, Applicants/Supporters and Ward Councillors.
4. After all the speakers have finished, the Chair will open the item up to the Committee for debate. There will be not be a specific formal questions slot for public speakers.
5. Finally, the Committee will be asked to take a decision on the application.

**COMMITTEE SITE INSPECTIONS - PROCEDURE**

**BACKGROUND**

In considering applications, the Council acts in a quasi-judicial capacity. It is a matter of law that it must act fairly throughout the determination process and observe the rules of natural justice. In recognition of this, the following procedure has been put in place to ensure that site inspections are conducted consistently and fairly and that all those who have an interest in an application are aware of the manner in which a site inspection will be undertaken.

**PURPOSE OF SITE INSPECTION**

The purpose of a site inspection is to provide Members of the Planning Committee with the opportunity to familiarise themselves with the relevant features of a site and its surroundings.

**FORM OF SITE INSPECTION**

A site inspection is not a formal meeting of the Planning Committee. It is an informal arrangement to provide Members with information to enable a decision to be made at a subsequent Planning Committee in the light of all relevant information available.

**DECISION TO HOLD A SITE INSPECTION**

A site inspection will be undertaken when the Planning Committee consider that it is essential to view a site and its surroundings in order to obtain a full understanding of an issue relevant to the determination of an application that cannot otherwise be considered adequately. A request for a site inspection from an interested party, supporter or objector will not oblige the Planning Committee to hold an inspection.

**ATTENDANCE AT SITE INSPECTIONS**

Officers will obtain the agreement of the applicant/landowner for a site inspection to take place on his land, where access is required.. .

Members of the Planning Committee will be present and relevant Officers of the District Council will attend.

Only the applicant or his/her agent will be invited to attend the site visit and this will only be to answer questions where members require clarification.

Objectors/supporters/Amenity groups representatives will not be invited to site visits.

Site visit arrangements will be confirmed in writing to applicants/agents and Planning Committee Members.

**PROCEDURE ON SITE**

The following procedural rules will be observed in the holding of all site inspections:-

- (a) The Chair will control proceedings throughout.



- (b) The Chair will explain that the purpose of the site inspection is to obtain information relevant to the determination of the application. He/she will summarise the proceedings and constraints as set out below.
- (c) The Chair will introduce the representative of the Planning Department who will describe the proposal with reference to features on the ground and the submitted plans and summarise the relevant issues and material considerations.
- (d) Other Officers may be present to provide other relevant specialist information where required e.g. Highways and Environmental Health.
- (e) The Officers will provide clarification on matters relating to the proposal in response to questions from elected Members. The applicant/agent may be asked by the Chair to provide clarification on any details that are unclear.
- (f) During the site inspection, no separate discussions must take place between Officers or Members and applicants.
- (g) No hospitality will be accepted from the applicant or any other party present at the site inspection.
- (h) Members may visit an adjoining site to view the impact of the development on an affected property, where a prior request has been made for such a visit and members consider it essential to make such a visit in order to properly determine the application. Such a visit will be subject to all the other provisions set out in this procedure. Requests to visit adjoining affected properties made on the day of the site visit will be at the discretion of the Chair.
- (i) The Chair will conclude the site visit. No indication of the views of Members or the likely outcome of the Planning Committee deliberations on the application will be given. If Members require further information or clarification of any aspect of the development, the Officer attending the visit will be asked to ensure that such information is available by the time of the subsequent Planning Committee meeting.