
Meeting: General Purposes Committee

Date: 20 January 2014

Subject: Proposed Amendments to the Constitution – Planning Matters

Report of: Cllr Matthews, Chairman of Development Management Committee

Summary: The report proposes the introduction of a more efficient and focused approach by the Development Management Committee, involving some changes to its current composition, procedures and approach to reaching decisions.

Advising Officer: Melanie Clay, Monitoring Officer

Contact Officer: Mel Peaston, Committee Services Manager

Public/Exempt: Public

Wards Affected: All

Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

The action proposed in this report will address the following Council priority:

- Enhancing Central Bedfordshire – creating jobs, managing growth, protecting our countryside and enabling businesses to grow.

Financial:

1. The report includes a proposal to hold site visits for (normally) every item on the Development Management Committee agenda, with every member of the Committee attending.
2. Currently Members use their own cars to attend site visits. Only those who are insured specifically for the purpose should offer lifts to colleagues so car-sharing is not always an option. Members are able to claim the costs of transport for all the site visits they attend, through the Members' Allowances budget (although Members do not claim for transport when their journey is within their own ward). Although the costs would vary depending on the number and location of site visits, they could amount to £250 – £400 if they used their own cars, while the cost of an appropriately sized coach is approximately £225 per day. Using a coach may therefore represent a more cost effective approach.

3. External training would be met through the existing Members' Development budget.

Legal:

4. The proposed new approach set out in the report requires some changes to the Constitution which are neither minor, nor providing updates, nor correcting errors. (Part A5 paragraph 2.3) The Committee's recommendations to amend the Constitution will therefore need to be referred to full Council on 30 January 2014, to ensure that any necessary amendments are agreed in advance of the Council's annual meeting on 1 May 2014 when the membership of the Development Management Committee will be determined for the year ahead.

Risk Management:

5. Members of the Development Management Committee must be equipped to take planning decisions through appropriate training. A lack of training could lead to decisions which may be subject to judicial review. Judicial review has significant reputational, resource and cost implications. Furthermore, site visits should ensure that the full Committee membership understands the implications of all planning applications, and enable meetings to focus on material planning matters.

Staffing (including Trades Unions):

6. Not Applicable.

Equalities/Human Rights:

7. To ensure that any decision does not unfairly discriminate, public authorities must be rigorous in reporting to Members the outcome of an equality impact assessment and the legal duties.
8. Public Authorities must ensure that decisions are made in a way which minimises unfairness, and without a disproportionately negative effect on people from different ethnic groups, disabled people, women and men. It is important that Councillors are aware of this duty before they take a decision.
9. It is therefore important that the Development Management Committee undertakes appropriate training in relation to development management decisions, on a regular basis.

Public Health

10. There are no implications for public health in the proposals set out in the report.

Community Safety:

11. Undertaking site visits using a coach increases the safety of members of the Committee, by enabling all the Members to arrive and be briefed together at sites where surfaces are uneven or where there are other hazards; and enables the coherent management of any adverse reaction by applicants or members of the public.

Sustainability:

12. Using a small coach for site visits, instead of a range of vehicles driven by individual Members, reduces carbon use whilst enabling a clear and informed understanding of site issues by all members of the Committee. Additionally, training may better equip Members to assess the sustainability of planning applications; and with sustainable development being at the heart of national and local planning policy, this is important.

Procurement:

13. The procurement of external training for members and substitute members of the Development Management Committee should be carried out in accordance with the Council's proper procedures.

RECOMMENDATIONS:**The Committee is asked to agree:**

1. that site visits should normally be held for all planning applications to be determined by the Development Management Committee, unless otherwise agreed by the Chairman or Vice-Chairman;
2. that all members and nominated substitute members of the Development Management Committee should attend site visits;
3. that the number of members on the Development Management Committee should be reduced from 18 to 13, with effect from the beginning of the 2014/15 municipal year;
4. to note that the Constitution requires the call-in of planning applications for determination by the Committee through use of a proforma, stating a valid planning reason, and that this will be enforced from the beginning of the 2014/15 municipal year;
5. that all Development Management Committee members and substitute members will be expected to undertake annual accredited training by an external trainer, starting in 2014/15;
6. that any planning applications submitted by senior officers of the Council (Heads of Service, Assistant Directors, Directors, and the Chief Executive) will routinely be determined by the Development Management Committee, however minor, and not through an officer's delegated powers.

The Committee is asked to RECOMMEND TO COUNCIL:

that amendments be made to the Constitution at Parts E2, H3 and the Ethical Handbook as set out in Appendices A, B and C attached, to give effect to the recommendations listed above.

Focus of Development Management Committee

14. This report sets out proposals to increase the focus and business-like approach of the Development Management Committee to taking planning decisions. The proposals include:
 - ensuring that Committee members not only receive training from Council officers prior to participating in taking decisions on the Committee, but also undergo annual, external accredited training to ensure a full understanding of the national and local context of planning considerations together with issues and procedures
 - ensuring that the full Committee membership understands the implications of all applications to be considered at a meeting, by holding site visits for all the planning applications on the agenda. These site visits should be attended by all the Committee members.

Site Visits

15. It is important that the whole Committee is fully involved in all the decisions that it takes. Previously, a site visit was the exception for most applications rather than the rule, and the number of Committee members attending site visits was restricted to five or six (the Chairman and Vice Chairman, 3 other members of the committee, plus the representative/s of the ward where the site is located).
16. It has become evident that discussion at Development Management Committee meetings on a matter which has been the subject of a site visit has been more focused on material planning matters. Furthermore, although photographs and plans displayed at the meeting are very helpful, seeing the actual building and proposals in context can lead to a clearer understanding of the key planning issues.
17. In view of these factors it is proposed that every application to be considered by the Committee should involve a site visit unless the Chairman or Vice-Chairman's agrees otherwise; and that all members of the Committee should attend all site visits.
18. This would enable focused debate at the Committee meeting on the material planning matters which would demonstrate a commitment by all of the Committee to determine each application on its merits.
19. If agreed, it will be necessary to amend the Council's constitution to reflect this change of approach, and the Committee would be required to make recommendations accordingly to full Council.

Numbers

20. A focused, streamlined approach informed by site visits for every planning application, attended by every member of the Committee, calls for a smaller Committee to work together in a more focused and cohesive manner. Site visits would be made using a coach rather than using the current system of individual cars and drivers. This would enable briefing on the coach about the issues and matters which should be inspected at the site visit and ensure that all Committee members had the opportunity to evaluate the proposals for themselves. There would continue to be a requirement that no debate on the merits of the applications was undertaken at the site visit.
21. Where a ward Member not on the Committee is to attend a site visit in their patch but not the other site visits, they would be welcome to do so and may attend on the coach or use their own car for the purpose.
22. Commitment from all members of the Committee will be key to improving the cohesive approach and this will require time spent both at the Committee meetings and on preparing for and attending site visits on a routine basis, amounting to at least 2 full days per month.
23. Research shows that the number of members on the planning committees of other unitary authorities tends to be lower than is currently the case at this Council, with the data set out in **Appendix D** attached. Reducing the number of members of the Development Management Committee to thirteen would enable a more cohesive, focused approach with the whole committee committed to being fully informed through attendance at all site visits.
24. Non-Committee members are encouraged, as now, to attend and speak at meetings when applications affecting their ward are considered.
25. Changing the number of Members on the Development Management Committee would require amending the Constitution by agreement of Council, and a recommendation is included above for this purpose.

Call-in of planning applications

26. Currently the Constitution provides opportunity for planning applications which would normally be decided by the appropriate officer to be called-in by a Committee member for determination by the Committee.
27. Although the Constitution requires that call-in is made on a proforma document, stating the planning reason why the matter should be determined by the Committee, custom and practice has been that requests have been e-mailed or made verbally to the Planning Officer, without necessarily stating a valid planning reason. This is sometimes in response to a Town or Parish Council concern where no valid planning reason has been mentioned.
28. Members will be reminded through the Members' Bulletin, and also by email with a proforma attachment, that all requests to call-in a planning application for Committee determination should be made using the proforma document, as stated in the Constitution, and from the start of the 2014/15 municipal year requests will only be processed if they are received on the proforma.

Training

29. All members of the Development Management Committee are required to attend a training session in advance of taking any decisions at their first Committee meeting. Seminars and workshops have also been provided from time to time for Committee members but these have not always been well attended. Members who are taking decisions on planning matters should remain abreast of changes to planning legislation and the national and local context.
30. It is important that Members are fully conversant with emerging issues as a lack of knowledge could represent a risk to the Council with judicial review of a planning decision remaining a possibility. Judicial review has a very significant resource implication.
31. It is therefore being recommended that all Members and substitutes on Development Management Committee will be expected to attend accredited training provided by an external trainer, on an annual basis.

Planning Applications from Members and Officers

32. Currently the Constitution provides that all planning applications submitted by members or officers of the Council will be determined by the Committee and not through officer delegated powers (Part H3 4.4.97.3). This takes no account of the extent of the application nor of the role or seniority of the officer.
33. In the interests of promoting transparency and appropriate use of resources it is suggested that all applications from elected members of the Council, and from senior officers of the Council (ie Heads of Service, Assistant Directors, Directors, and the Chief Executive), should be determined by the full Committee and not through the delegated powers of the Assistant Director of Planning. Where the Assistant Director of Planning considers that it is appropriate for any applications from other officers, for example any officer involved in the planning process, to be referred to the Committee for determination, he will do so. This will include applications from officers where an objection is received.

Amendments to the Constitution

34. The proposals set out above would require some amendments to the Constitution to be effected. They are detailed below and set out in the appendices attached.
 - (a) Part E2 Committee Terms of Reference (see **Appendix A**)
35. Part E2 paragraph 1 sets out the terms of reference for the Development Management Committee. The number of members should be amended from 18 to 13.
 - (b) Part H3 Scheme of Delegation to Directors and Other Officers (see **Appendix B**)
36. An amendment is needed to provide that planning applications submitted by senior officers of the Council will be determined by the Committee and not through officer delegated powers.

37. (c) Ethical Handbook (see **Appendix C**)

A number of changes should be made to reflect:

- the organisation of site visits
- the requirement for annual training
- Code of Practice for Site Inspections – how site inspections will be carried out and who may attend

Conclusion and Next Steps

38. Further to consideration by General Purposes Committee of the package of measures as set out in the report, and subject to its agreement, recommendations will be made to Council on 30 January to enable the Constitution to be amended.

Appendices:

Appendix A – Proposed amendment to Part E2 of the Constitution

Appendix B – Proposed amendment to Part H3 of the Constitution

Appendix C– Proposed amendments to the Ethical Handbook, contained within the Constitution

Appendix D – Size of Planning Committees in unitary authorities

Background Papers: (open to public inspection) None

Note – Background documents are those which have been used to prepare the report, which are not already published and which are open to public inspection.