

**24 March 2015**

**Ordinary Council**

**Modern Planning Report**

**Report of:** *Gordon Glenday, Head of Planning and Development*

**Wards Affected:** *All*

**This report is:** *Public*

**1. Executive Summary**

- 1.1 In this report are proposals for improved delivery of the Council's planning services for recommendation to full Council, where necessary
- 1.2 The proposals focus on the current system of delegation of decisions of planning applications and enforcement cases and sets out an alternative process as explained in the Appendices to this Report.

**2. Recommendations**

- 2.1 That all planning decisions to be delegated to the Head of Planning except for those retained to the Planning and Development Control Committee, or referred to as set out in the revised delegation arrangements and call-in referral protocols.**
- 2.2 The replacement of the weekly list production by email alert of validated applications and method of call-in of planning applications by Ward Members, Parish Councils or Chair /Vice Chair to Committee.**
- 2.3 That enforcement issues be determined having regard to the Planning Enforcement Plan when adopted.**
- 2.4 That revised planning protocols, delegation arrangements and other Constitutional changes to implement the above be adopted.**

**3. Introduction and Background**

- 3.1 The planning system has changed considerably since the 1980's; the thrust of current government thinking is a 'positive and proactive'

approach by local planning authorities when engaging with applicants and an emphasis on finding solutions to problems, encouraging the delivery of sustainable development. A modern planning service no longer seeks to restrict or 'control' development but to manage the process from the conception of a scheme at pre-application stage, to its delivery and compliance. Public participation entails a service to the public as well as applicants for permission, and use of technology is essential to achieve efficiency at moderate cost.

- 3.2 Planning decisions are currently delegated to officers only if they are reported first to members via the production of a published 'weekly list', a procedure which entails additional work and curtails available time. This system dates back to the early 1980's and is heavily process driven. In order for a decision to be issued within the government's target of 8 weeks (or 13 for a major application), an officer's recommendation must be ready for publication at least 10 days in advance of the target date and up to 21 days. This puts the Council at a self-imposed disadvantage in improving its performance, and out of reach of the top quartile of best performing authorities in the Country. A common complaint from users of the planning service is that they have not been given opportunity to address the issues raised in reasons for refusal during the planning assessment period; equally, the opportunity for promoting good design, wider community engagement or exploring benefits that a development may offer is missed.
- 3.3 The current scheme of delegation constrains officer time, incurs production costs and hinders a positive approach to problem solving. Conversely, the national planning system places great weight on good quality pre-application discussions and front loading of applications; local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage (para 189 NPPF, 2012). Because of the inflexibility of the current delegation process, valuable officer resource is focused not on pre-application stage, but on producing a recommendation driven disadvantageous target dates.
- 3.4 The current method for Member call-in relies on the publication of an officer's recommendation within a public document. At present only once a recommendation is published can a Member call-in the application to the Committee. This exposes Members to lobbying from objectors, applicants and agents and results in the call-in of applications which may be based on personal and subjective preferences rather than recognised national planning policy principles. This is wholly undesirable for Members of the Committee, who are required to keep an open mind on applications and be fair to both applicants and objectors. In any event, Committee Members should refer such approaches to other Ward Members.

- 3.5 Ward Councillors who are Members of the Planning Committee may attend pre-application meetings and ask questions but express no views on proposals. Thereafter Ward Councillors who are members of the Committee should remain impartial on applications which may come before the Committee. Concerns from residents should be passed to the case officer by Committee Members should not come to a firm view on such applications.
- 3.6 The Council's adopted Statement of Community Involvement refers to call in by Parish Councillors and Ward Councillors but is not transparent about the process. In Wards where there are Parishes it is hoped that there will be liaison between Borough Councillors and Parish Councils on applications which raise concerns. The Protocol recommended separates the roles of Ward Councillors who are Members of the Committee and as such may not call-in applications, and other Ward Members who may take a firm view on a particular application and if that Member considers there are Planning grounds for Call- in, complete a Pro Forma accordingly (Appendix D – example of completed pro forma).
- 3.7 As set out in the next section, Members who have an e-mail alert may notify local residents but should explain the governance issues for contacting Ward Councillors if residents have particular concerns. Members who have taken a firm view or championed a position for or against an application and signed Call in pro forma which has been accepted should not be a member of the Committee deciding the application or substitute for a Member of the Committee for the determination of that application.
- 3.8 The Chair of the Committee is appointed by Council has wide powers and responsibilities. Only the Chair can call-in applications from any ward in the Borough, after discussion with the Head of Planning- in his absence the Vice-Chair can act. It is proposed that the Vice-Chair should also have power to refer applications from a Single Member Ward if the Member is a Member of the Planning Committee.
- 3.9 Public opinion by itself is not a material planning consideration. The reasons for debate at the Committee should be for planning reasons of policy, development plan interpretation or evidence based concerns.

#### **4 Issue, Options and Analysis of Options**

- 4.1 The issue is one of improving the planning service through the streamlining of processes and procedures and the provision of a fully reviewed and updated pre-application service.
- 4.2 In order for officer resource to be able to focus on problem solving it has been necessary to identify the options for delegation of planning decisions in the most cost efficient way commensurate with good service to Members, applicants and public.

- 4.3 The option identified is to cease production of a weekly list and replace this with the daily email alert to Members of valid applications made within their Ward. This would be before the publication of applications on the public access system. Members will be able to note the validity and communicate but the opportunity for call-in pro forma completion for referral to Committee should rest with Members not on the Planning Committee. The option recommended is to revise the period for call-in of an application from day of validation to 7 days following the close of neighbour consultation. Appendix A of this report outlines the process for Member email alert, Appendix B details the call-in process and Appendix D example of completed pro forma.
- 4.4 The extended call in period will allow Members to enter into discussion with officers and raise issues which have been raised by their constituents with officers, prior to any formal recommendation.
- 4.5 A formal request for call-in will be agreed with the Chairman of Planning (or Vice Chairman in absence) following a discussion with the case officer and or Team Leader or Head of Planning. In Wards where there are Parish Councils it is hope there will be liaison if call-in is to be triggered.
- 4.6 The option relies on both Members and officers engaging in early dialogue and a proactive approach to problem resolution. The suggested option priorities Member notification of a new application and before it is publicised either on the Council's web site or via neighbour notification.

## **5 Reasons for Recommendation**

- 5.1 The Council has a foundational basis for its Planning Service in historical constitutional arrangements, some of which date back to 1982. The need for review and update is urgent, therefore, as there is increasing risk of challenge from working with such out-dated procedures.
- 5.2 The removal of the weekly list will enable Members to get involved with applications at a much earlier stage in their process and work positively with officers as they make their technical assessments. The removal of the weekly list will result in efficiency savings

## **6 Consultation**

- 6.1 Discussions with staff have been held in the preparation of this report. A draft of this report was sent to all Members of the Council on Monday 9 February.

## **7. References to Corporate Plan**

- 7.1 Proposals in this report support the Modern Council theme of the Corporate Plan in making efficiencies and savings, while improving service delivery to customers.
- 7.2 The planning service itself supports the Prosperous Borough theme by its promotion of quality development and growth.

## **8 Implications**

### **Financial Implications**

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- 8.1 There are no specific financial implications in this report, although a review of the pre-application service and fees and charges is presented, subject to approval of this report.

### **Legal Implications**

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- 8.2 Last year, the Openness of Local Government Bodies Regulations 2014 came into force. These require certain decisions made under delegated powers to be recorded and published on the web site when the effect of the decision is to grant a permission or licence, affect the rights of an individual, or award a contract or incur expenditure which, in either case, materially affects the Council's financial position. The written record required to be maintained for six years must contain:

- (i) The decision date
- (ii) The decision itself;
- (iii) The record of the decision itself;
- (iv) Any alternative options (if any) considered and rejected, and
- (v) Any declaration of conflict of interest by a member of the Council where express authorisation is being exercised.

For the great majority of the decisions made under the Planning statutory regime, items (i) – (iii) are already being done and do not have to be repeated, but items (iv) and (v) are still required to be added to the written record and published on the website subject to exceptions if confidential or containing exempt information.

- 8.3 The Call-in referral is not considered to be a decision under the Openness Regulations being rather a request for an internal procedure. However, openness and transparency are essential to public confidence by applicants and residents or other affected parties, and a pro forma setting out policy or evidence-based issues for examination is considered good practice and desirable to avoid possible criticism of inconsistency.
- 8.4 The recording of decisions on Planning Enforcement will be affected by the Openness Regulations as mentioned in the Enforcement Plan which has been through public consultation.
- 8.5 The changes in delegation, if approved will need to be programmed for report to the Council meeting on 25 March 2015.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.6 No other implications are identified.

## 9 **Background Papers**

- 9.1 Appendices to this report

## 10 **Appendices to this report**

- Appendix A – Member Notification e-mail alert
- Appendix B – Referral to Committee by call in procedure
- Appendix C – Protocol/ Guidance Note
- Appendix D – Example of completed pro forma

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