

Planning Committee Terms of Reference

Final Decision-Maker	Council
Lead Head of Service/Lead Director	Angela Woodhouse Head of Policy, Communications and Governance
Lead Officer and Report Author	Ryan O'Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	All

Executive Summary

This report outlines amendments to the Terms of Reference of Planning Committee, to ensure that best practice is followed in the administration of calling-in Planning Applications to the Committee.

At its meeting on 13 March 2019, the Democracy Committee commented on the purpose and intended outcome of amending the Planning Committee Terms of Reference. To ensure that the comments made by the Committee were articulated appropriately, it was agreed that the amendments would be drafted and sent to all Members of the Democracy Committee via email for approval (Appendix 1). Five members of the Democracy Committee confirmed their agreement to the draft wording, attached as Appendix 1. Unchanged elements of the Terms of Reference have been highlighted in the appendix.

This report makes the following recommendations to Council:

That the Planning Committee Terms of Reference, attached as Appendix 1, be approved.

Timetable

Meeting	Date
Democracy Committee	13 March 2019
Council	10 April 2019

Planning Committee Terms of Reference

1. INTRODUCTION AND BACKGROUND

- 1.1 During the regular process of reviewing the Constitution, anomalies with the Terms of Reference of the Planning Committee, in relation to the call-in of Planning Applications, have been identified. These anomalies are not considered best practice, and rationalisation of the terms of reference is required.
- 1.2 At its meeting on 13 March 2019, the Democracy Committee commented that:
- It was important to achieve parity on call-in procedures for Ward Members and Parish Councils. This ensured that any Ward or Parish impacted by a planning application could call-in the application on material grounds.
 - The position of Political Group Spokesperson should not be removed, however, this role should not have the ability to call-in all planning applications.
 - If an application was called-in by a Councillor or Parish Council, those who called-in the application were expected to attend the relevant Planning Committee meeting. If there were legitimate reasons for being unable to attend, Officers should be contacted to ensure that the reasons for calling-in the application were shared at the Planning Committee meeting.

Planning Committee Political Group Spokespersons

- 1.3 The current Terms of Reference for the Planning Committee allow Planning Committee Political Group Spokespersons ('Spokespersons') to call-in Planning Applications to Planning Committee.
- 1.4 This power, in effect, could be seen as giving a political route into the decision making of the Planning Committee and the Planning Committee should not be political due to its quasi-judicial nature. Call-ins must be made by Members on relevant Planning Grounds, and not for political reasons. Although there is no suggestion that the call-ins made by spokespersons have been politically motivated, the perception of allowing a political route of calling in applications to Committee needs to be addressed even if the call-in power has not been exercised in this way.
- 1.5 Public perception is key to ensuring confidence in decision making. As political group spokespersons are members of the Committee there is an increased risk of negative public perception of Members retaining an open mind on the matter in front of them, where it has been called in by a member of the Committee.
- 1.6 It is unclear as to why this provision was added into the Constitution, although it has been suggested that it dates back to the pre-2000 Committee System of governance that was in place at Maidstone Borough

Council where Spokespersons were appointed to each Committee.

- 1.7 The Planning Committee appoints Spokespersons at its first meeting of the year from the Political Groups represented on the Planning Committee. Under the Committee's current composition this means that members from the Independent Maidstone Group do not have a Spokesperson and are unable to exercise the call-in procedure. Therefore the current arrangements are not equitable to all political parties represented on the Council.
- 1.8 Following a review of other District Councils, it was identified that Maidstone was unique in having this provision within its Constitution. Enquiries were sent via the Association of Democratic Services Officers to see whether any other authorities had a similar arrangement in place, and it was confirmed that none of the respondents had similar arrangements.
- 1.9 Compared to other District Councils, most either opened up the call-in procedure to all Council members, providing the reason for the call-in was a relevant planning consideration, or restricted the power of call-in to ward members or ward members affected by proposed development.
- 1.10 In order to remove this anomaly in the Constitution, it is proposed to remove the call-in powers of the Spokespersons and retain the right of Ward Members to call-in planning applications. The wording will be amended, however, to allow those ward members of affected wards to call-in applications as well.

Parish Council Call-ins

- 1.11 Alongside the amendment above, a further amendment is required to clarify the power of call-in for Parish Councils. Currently the Constitution states that a Planning Application can be called-in to Committee if it is 'contrary to the written view of any Parish Council and the Parish Council has requested that the application is determined by the Planning Committee'. The current wording could be interpreted as meaning that any Parish Council is able to call in any planning application in the Borough, providing they have made an objection and requested that the application be considered by Committee. This has not happened in practice, and there is no suggestion that Parish Councils are using their call in powers inappropriately. However it is important to ensure that the call-in power of Parish Councils reflect the arrangements made for Ward Members. Therefore the amendment outlined in Appendix 1 for this section of the Terms of Reference is also proposed.
- 1.12 In the current the terms of reference there is a risk that a planning application is called-into Planning Committee which is based on concerns which are not planning related or relate to issues which are within the purview of the statutory consultee over which the Council has little, if any, control. As such, discretion should be exercised in using this power and a planning application should only be called-in where, in the opinion of the Head of Planning and Development, there is a relevant planning issue which warrants consideration by the Planning Committee.

Amendments to the Constitution

- 1.13 Proposed amendments to the Constitution as a result of the changes outlined above can be found in Appendix 1 to this report.
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2. AVAILABLE OPTIONS

- 2.1 Council could agree to amend the Planning Committee Terms of Reference. This would eliminate an aspect that could lead to bad practice, and ensure that the arrangements for Planning Committee are in line with other similar District Councils. Amending the terms of reference in relation to the Parish Council call-in powers would ensure that there was parity between Ward Members, Parish Council powers to call-in applications. Furthermore, discretion should be exercised in calling-in a planning application and as such a planning application should only be called-in where there is a relevant planning issue which warrants consideration by the Planning Committee
- 2.2 Council could alternatively choose to do nothing, and not make amendments to the Planning Committee's terms of reference.
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3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 The option outlined in paragraph 2.1 is the preferred option, as it ensures that the Council is working in line with best practice.
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4. RISK

- 4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Consultation with the key Member stakeholders has been carried out prior to drafting these proposals.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If amendments to the Constitution are approved by Council at its April meeting, the appropriate changes will be made to the Constitution.
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7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Accepting the recommendations will improve the Council's ability to achieve its corporate priorities through improving the Council's governance and reducing the risk of the challenge of Planning Committee decisions.	Democratic and Electoral Services Manager
Risk Management	See paragraph 4.1.	Democratic and Electoral Services Manager
Financial	There are no financial implications associated with the recommendations in the report.	Director of Finance and Business Improvement
Staffing	No implications.	Democratic and Electoral Services Manager
Legal	Accepting the recommendations will improve the Council's governance and reduce the risk of challenge of Planning Committee decisions.	Democratic and Electoral Services Manager
Privacy and Data Protection	No implications.	Democratic and Electoral Services Manager
Equalities	No impact identified.	Equalities and Corporate Policy Officer
Public Health	No implications.	Democratic and Electoral Services Manager
Crime and Disorder	No implications.	Democratic and Electoral Services Manager

Procurement	No implications.	Democratic and Electoral Services Manager
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Proposed Amendments to Planning Committee's Terms of Reference

9. BACKGROUND PAPERS

None