

Appendix A Proposed Changes to the Constitution

I. Plans committee procedures

1. Change of Length of Time for Speaking and Delegation of Enforcement Items

(a) Councillor speaking rights

A member who is not a member of the Plans Committee may address the committee called to consider planning applications or ~~enforcement actions~~ other matters on the agenda for a period of no longer than ~~five~~ three minutes, but will not be entitled to take part in the debate or vote, provided that:

- i) the member is one of the ward members who has been, or would have been, consulted under the procedure for notifying and consulting councillors on planning applications;
- ii) the member gives notice in writing or in person to the Head of Planning and Growth at least two working days before the appropriate meeting.

The following councillors who are unable to exercise this right may nominate another Councillor to speak on their behalf by giving notice in writing or in person to the Head of Planning and Growth at least two working days before the appropriate meeting:

- councillors who represent a single member ward
- the Mayor
- the Deputy Mayor
- councillors who are ill.

If more than one member wishes to speak on the same application or enforcement action, the period of ~~five~~ three minutes for speaking will be divided equally between the members concerned.

Members who are unable to attend the Plans Committee meeting can submit a written statement to be read out at the meeting by the Chair (the relevant time limits will apply).

The Chair of the Plans Committee may, in exceptional circumstances and with the consent of the Committee, allow a member who has not given the required notice to address the meeting.

(b) Public speaking rights

Where written notice is given not later than seven working days before the meeting of the Plans Committee, and this has been confirmed not less than two working days before the meeting itself, the following people may address the committee for a period of no more than ~~five~~ three minutes:

- i) An objector to an application where:
 - the objector has made a written comment on the application setting out the reasons for objection;
 - the grounds of objection raise material planning considerations; and
 - the objector has given written notice of a wish to speak;
- ii) A supporter to an application where:
 - the supporter has made a written comment on the application setting out the reasons for support;
 - the grounds of support raise material planning considerations; and
 - the supporter has given written notice of a wish to speak;
- ii) An applicant (or agent appointed to act on his/her behalf);
- iii) An authorised representative of the Town/Parish Councils or Meetings that have been consulted supporting the view of those Town/Parish Councils or Meetings on an application.
- iv) Where the relevant Town/Parish Council or meeting wishes to speak it must [confirm-register](#) that desire not less than two working days before the meeting.
- v) Where no Town/Parish Council or Meeting exists, an authorised representative of a properly constituted community group based in that area which has made formal representations in respect of the application, supporting the view of that group on an application.

~~For a decision on whether to issue an enforcement notice, whether or not there is also an associated application on the agenda, the following people may address the committee for a period of no more than five minutes providing they have confirmed that they will do so not less than two working days before the meeting:~~

- ~~i) —The developer (or agent appointed to act on his/her behalf),~~
- ~~ii) —Any person who has lodged a complaint in respect of the unauthorised development,~~
- ~~iii) —An authorised representative of a Town/Parish Council or Meeting which has lodged a complaint in respect of the unauthorised development, in support of that complaint.~~
- ~~iv) —Where no Town/Parish Council or Meeting exists, an authorised representative of a properly constituted community group based in that area which has lodged a complaint in respect of the unauthorised development, in support of that complaint.~~

In all cases the time limit of ~~five~~three minutes applies to the total time available under each of the headings (i) to (iv) above. Where there is, for example, more than one objector ~~or complainant~~ who has made a request to speak or more than one Town/Parish Council or Meeting that has been consulted, it is the responsibility of the objectors/~~complainants~~ or Councils/Meetings to appoint a representative to speak on their behalf. If no agreement can be reached by the objectors, the time limit of ~~three~~five minutes will be divided equally among the objectors/~~complainants~~ or Councils/Meetings.

~~Where there are both application and enforcement items relating to the same development, there will only be one opportunity to speak and that will be to the item which appears first on the agenda.~~

Where other items within the terms of reference of the Committee are to be considered, the principles/rules for public speaking set out above will be adapted to suit the nature of the item.

The Chair of the Plans Committee may, in exceptional circumstances and with the consent of the Committee, allow a person who has not given the required notice to address the meeting.

The Chair of the Plans Committee may ask speakers or officers to provide clarification on any points that are raised by speakers.

2. Changes to the Process for Calling-in Planning Applications

~~After a planning application has been registered and made valid following the formal 21 day consultation period, ward councillors may write to officers to give notice of their desire to call in applications to plans committee. Officers will write to ward councillors where the application is in their ward, part of the application site is in their ward or the application site is immediately adjacent to or within 15 metres of the boundary of their ward.~~

~~The right to call in the application applies only to those ward councillors where the application site is wholly or partly within the boundary of their ward. Those ward councillors can request that an application that is wholly or partly within the boundary of their ward which would otherwise have been determined by the Head of Planning and Growth under delegated authority is called-in to the Plans Committee ~~which would otherwise have been determined by the Head of Planning and Growth under delegated authority.~~~~

To be valid a call-in request must:

- be received in writing (which can include by email) giving a relevant planning reason or reasons no later

than 5pm, ~~28~~21 calendar days from the date of the consultation being sent to the ward councillors or 7 calendar days after the expiration of the initial local consultation on an application, including site notification and/or newspaper publicity, whichever is later.

- ~~• In exceptional circumstances, a ward councillor can call in an application after the 21 calendar days with the agreement of the Chair of the Plans committee and the Head of Planning & Growth.~~ include relevant material planning considerations; and
- clearly justify why the decision is controversial or of significant public interest and should be made in public session;

Applications that are the subject of a valid request will be added to the agenda of the next reasonably available meeting of the Plans Committee for determination, unless a written request to withdraw it is submitted by the ward councillor

~~After an application has been called in, unless a written request to withdraw it is submitted by the ward councillor, the application will be referred to the Plans Committee for determination.~~

A ward councillor can withdraw a call-in request at any time prior to the publication of the agenda for the meeting at which a called-in application is due to be considered. Withdrawals of call-in requests must be in writing (which can include by e-mail).

In addition, if, following a call-in which has not been withdrawn, officers believe that the issues raised by the ward councillor in his/her call-in have been addressed, officers will submit the recommendation report, which is prepared for each application, to the ward councillor. The report, which will contain a summary of the main issues regarding the application, will enable ward councillors to consider whether they wish to maintain or withdraw their call-in of an application. Ultimately, the Chair (or vice chair in their absence) will decide if the item will be added to the committee agenda.

A further call-in period will be given to ward councillors if significant revised or additional plans or information are received on a planning application which necessitates a further period of local consultation. The relevant councillors will be informed in writing of any significant revised or additional plans or information and any further call-in period. The length of the further call-in period will be the same period as the re-consultation period on the revised or additional details.

If the following councillors are unable to exercise this right they may nominate another Councillor to request a call in on their behalf by giving notice in writing to the Head of Planning and Growth:

- the Mayor
- the Deputy Mayor
- councillors who are ill.

Ward councillors must follow the requirements of the Members' Code of Conduct and the Planning Code of Good Practice in determining whether or not they are able to exercise their right to request the call-in of a planning application, or nominate another councillor to do so, under the provisions in the paragraph above.

Ward councillors who call-in a planning application are expected-required to attend the Plans Committee meeting at which it is considered. If a ward councillor who has called-in a planning application is unable to attend the meeting, they/he/she is able to, and should must, identify another councillor to speak on his/her/their behalf or in exceptional circumstances to provide a written statement for the Chair to read out within the allowed time for ward councillor speaking. The nominee can exercise the same ward councillor speaking rights as the councillor calling-in the planning application could have done if he/she/they were/was present at the meeting.

The following planning applications are not subject to the Call-In Procedure:

- (i) applications for Certificates of Lawfulness
- (ii) applications which fall to be determined by Leicestershire County Council or a neighbouring authority
- (iii) discharge of Planning Condition(s)
- (iv) applications for works to protected trees and/or ~~trees~~ in a Conservation Area
- (v) prior approvals - applications for prior approval of works to be carried out under permitted development rights (including notification of householder extensions etc.)
- (vi) applications for non-material amendments and minor material amendments to planning permissions that were determined under delegated authority and where no demonstrable harm would be caused to an interest of acknowledged importance
- (vii) screening and scoping applications for Environmental Impact Assessments.

3. Extras Report Procedure

(d) Late information relating to planning applications

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Information relating to planning agenda items received after the preparation of the Plans Committee Agenda will be the subject of a verbal summary from planning officers at the meeting. This summary will be supported by the publication of an Extras Report. Wherever possible this report will be published by 5pm on the day before the Plans Committee meeting.

Late information received after 12 noon on the day prior to the relevant Plans Committee meeting will be summarised verbally by officers.

II. Delegation of Council Functions to the Head of Planning and Growth

1. To determine all planning applications and applications for advertisement consent, listed building consent, conservation area consent and consent to carry out works to protected trees, except where:
 - (i) the application is contrary to the provisions of the Development Plan and is recommended for permission;
 - (ii) in the opinion of the Head of Planning and Growth, the application is controversial or likely to be of significant public interest or would have a significant impact on the environment;
 - (iii) the application is submitted by or on behalf of the Council for its own development, except for the approval of development which in the opinion of the Head of Planning and Growth is not of major impact and to which no objections have been received;
 - (iv) the ward councillor(s) have made a valid request that the application should be referred to the Plans Committee for determination in accordance with the call-in procedure set out in section 12.12 of the Constitution;
 - (v) the application is submitted by a serving member of the Council, ~~or a serving officer,~~ or the spouse or civil partner of a serving member of the Council or a serving officer, or a person with whom a serving member of the Council or a serving officer is living as if they were a married couple or civil partners.
 - (vi) an application is received to remove or vary a planning condition or to vary a s106 legal agreement and the planning permission for the development was granted following a resolution by the Plans Committee except in cases where, following consultation with the Chair and Vice Chair of the Plans Committee and relevant ward councillors, the Head of Planning and Growth is of the opinion that the variation is minor in nature.

NEW: To determine planning applications with a resolution from the plans committee to grant planning permission subject to S106 legal agreement where that legal agreement has not been signed by a date specified in a committee resolution or date otherwise agreed with the applicant.

21. To negotiate the heads of terms of section 106 agreements and to enter into an agreement under S106 of the Planning Act to secure planning obligations in instances where the decision is delegated to the Head of Planning and Growth

2. Delegation of Enforcement Activities to Officers

11. To take formal enforcement action in relation to cases of unauthorised development not covered by other specific delegated authority except where the details of an intended delegated decision on any recommendation to take enforcement action have been circulated to the ward councillor(s) concerned (or in the case of single-member wards, to another councillor nominated by the

~~ward councillor) and by 5 pm on the second working day following the details being circulated, a councillor who has been consulted has advised the Head of Planning and Growth, via e-mail or in writing and giving relevant planning reason(s), that the matter should be referred to the Plans Committee for determination.~~

12. ~~Subject to prior consultation with the appropriate ward councillor(s) (or in the case of single member wards, with another councillor nominated by the ward councillor),~~ To determine cases where it is not considered expedient to take formal enforcement action in relation to cases of unauthorised development where such development is in accordance with planning policies or standards, does not result in a significant loss of amenity to local residents and does not have a significant impact on the character and appearance of the area.

Delegation of executive functions

Delegation to the Head of Planning and Growth General

1. To serve requisitions for information except under Section 330 of the Town and Country Planning Act 1990 (see also Council delegations).
2. To respond to requests for the grant of a goods vehicle operator's licence.
3. To enter into management agreements under Section 39 of the Wildlife and Countryside Act 1987, subject to:
 - (i) the expenditure not exceeding £2,000 over the term of an agreement where annual payments are made; or
 - (ii) where a single payment is made.
4. To respond to traffic regulation order proposals following consultation with the relevant Lead Member and appropriate local councillors.
5. To make urgent changes to conservation area boundaries in consultation with the relevant Lead Member to protect a particular building.
6. To review, update and make amendments to the criteria for validating planning applications in response to statutory changes or revised Government advice (the 'local list').
7. ~~To make amendments to the Enforcement Plan in response to future legislative changes, or changes at local or regional level, in consultation with the relevant Lead Member~~
~~To make minor amendments to the Planning Enforcement Policy in consultation with the relevant Lead Member.~~
8. To make minor changes to the Council's Environmental Policy in consultation with the Leader.
9. To issue a Community Protection Notice (CPN).

10. To serve a notice or carry out work to remedy a breach of a CPN.

11. To issue fixed penalty notices for failure to comply with a CPN.

III. Planning Code of Good Practice

4.2 When considering planning applications, you should:

- only make decisions in accordance with the Development Plan unless material considerations indicate otherwise;
- come to your decision only after due consideration of all of the information before you. If you feel there is insufficient time to digest new information defer making a decision to a later meeting or if there is insufficient information before you, request the additional information;
- ensure that if you are moving, seconding or supporting a proposal contrary to officer recommendations or the Development Plan that you clearly justify the planning reasons for doing so before any vote is taken. Be aware that [if you move or second a refusal against officer recommendation](#) you may have to justify the resulting decision by giving evidence in the event of any challenge [to a planning decision](#);
- only vote or take part in the meeting's discussion on a proposal if you have been present to hear the entire debate, including the officers' introduction to the matter.

Changes to the Process for Calling-in Planning Applications

7.2 Councillors who are not members of the Plans Committee may exercise their separate speaking rights as a Ward Member set out in Other Committee Procedure 12.12(a). However, if you have a disclosable pecuniary interest or an interest leading to bias you will not be able to do this even under paragraphs 4.3 and 4.14 of the Members' Code of Conduct. If you do exercise speaking rights:

- advise the Head of Planning and Growth that you wish to speak in this capacity at least 24 hours before the meeting;
- you will not be able to vote on the matter;
- you should seat yourself in the place allocated to those addressing the Plans Committee;
- at or immediately ~~prior to~~[before](#) the meeting you should not circulate written information to the Committee.

Where a ward councillor has called in an application to Plans Committee, **they [will be required to attend the meeting to explain why it has been called in](#)** and their concerns. If they are unable to attend, they must nominate a

substitute to stand in for them and express their views or submit a written statement which can be read out by the Chair within the three five-minutes allowed for speaking.s

8. Contact with Applicants, Developers and Objectors

(Application: All Councillors)

8.1 If you are contacted by applicants, developers or objectors:

- refer those who approach you for planning, procedural or technical advice to Planning Officers;

Councillors can involve themselves in discussions with developers, their constituents and others about planning matters. However, difficulties can be avoided if Councillors inform officers about any approaches made and seek advice.

(Application: Plans Committee)

8.2 If a member of the Plans Committee is contacted by an applicant, objector or developer:

- they should refer any requests for planning, procedural or technical advice to officers;
- they should report in writing to the Head of Planning and Growth any contact with an applicant, objector or developer which could (or could reasonably be perceived by the public) to effect the determination of a planning application, requesting that it is recorded on the planning file.
- they should not agree to any formal, private meeting with applicants, developers or objectors if you-they can avoid it;
- if you-they feel that a meeting or site visit would be useful in clarifying the issues, you-they should never seek to arrange that meeting yourself themselves but should request the Head of Planning and Growth to organise it;
- ~~comply with the Council's protocol relating to presentations in Chapter 25 of the Council's Constitution. Officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Plans Committee.~~
- be aware of the rules relating to pre-determination and bias in section 5 of this Code; and

- if you subsequently take part in the Plans Committee meeting considering this matter, disclose those contacts to the meeting.

CHAPTER 25 PROTOCOL ON PRESENTATIONS TO COUNCILLORS

1. The Council recognises the need for Councillors to be well informed about issues affecting the Borough. It also recognises that third parties will have information about proposals that they wish to provide to councillors. However, there are circumstances where the provision of information, if handled inappropriately, can lead to problems. This is particularly the case where the Council is required to make decisions on an issue at some future date.
2. This protocol, therefore, regulates how information may be given to councillors in the form of a formal presentation in these circumstances. It is designed to complement the Members' Code of Conduct in Part 5 of the Constitution and the Members' Planning Code of Good Practice. In the event of any conflict between this protocol and those codes, the codes shall take precedence.
3. Any request by a third party (the definition of which shall include a councillor or an officer acting in another capacity) to make a formal presentation of information to councillors, other than in a meeting to which the Access to Information Rules in Point 4 of the Constitution apply, shall be made either:
 - (i) to the Council's Monitoring Officer; or
 - (ii) to the relevant Director or Head of Service.

In the case of (ii) above, the relevant Director or Head of Service will refer the proposal to the Monitoring Officer for advice.

4. This protocol may not apply in the circumstances where developers and promoters of development proposals can be managed within a pre-application environment where engagement with elected representatives may be facilitated by planning officers as part of the normal planning process. Where elected members are directly approached by promoters of land, they should notify the Head of Planning and Growth so the request can be considered and managed in accordance with the appropriate protocol.

5. A request by a third party to make a formal presentation of information under 22. above shall be in writing, setting out the reason(s) for the proposed presentation, the subject matter, the councillors for whom the presentation is intended and any other relevant information.
6. The Monitoring Officer will consider each request and advise the relevant Director or Head of Service of the suitability of the proposed presentation having regard to this protocol, the information submitted, the available alternative methods of providing the information, the codes referred to in 1. above and any other material considerations.

7. The Director or Head of Service, taking account of the Monitoring Officer's advice, may agree or refuse the request or may agree to elements of the proposed presentation. Alternatively, he or she may refer the request to the Cabinet or a Committee (as appropriate to the proposal) together with the Monitoring Officer's advice, to agree or to refuse the request or to agree to elements of it.
8. Where a request is agreed, and the presentation proceeds, it shall do so strictly in accordance with the following rules:
 - (i) A copy of this protocol will be supplied by the relevant Director or Head of Service to the third party concerned at least five days before the presentation.
 - (ii) At least two officers shall be present at the presentation.
 - (iii) A record of attendance at the presentation shall be made in accordance with the usual arrangements for Council, Cabinet and Committee meetings.
 - (iv) Before the presentation starts, an officer will outline these rules, and thereafter will maintain compliance with them and will ensure that notes of what is said at the presentation are taken.
 - (v) No Councillor shall be involved in making a presentation as a representative of the third party or otherwise.
 - (vi) Before the presentation starts, all Councillors will be asked to disclose any interests in the matter, in accordance with the Members' Code of Conduct, and all disclosures made will be recorded as part of the notes referred to in (iv) above.
 - (vii) The presentation is for information only and the third party must not seek to ascertain councillors' views on any issue nor lobby councillors for support.
 - (viii) Councillors may ask questions for clarification purposes but must not offer any opinions on the merits or otherwise of any proposals.
 - (ix) Councillors and all present must be aware that the presentation does not form part of the Council's decision-making process and that the process of debate and determination of any matter arising will be carried out in accordance with the Council's normal procedures.
9. Where a request is refused, the body or individual taking that decision must give reasons.

Chapter 12 OTHER COMMITTEE PROCEDURES

12.3 Composition

| Committee | Size | Quorum | Substitutes |
|-----------------|--|-------------------------|-------------|
| Audit Committee | <p><u>Two Independent Member (inc. Independent Chair)</u></p> <p>Plus seven Councillor members. No members of the Cabinet can be members of the Committee</p> <p>The Vice-chair will be appointed by the Committee from among its members.</p> <p>Appointment of the Independent Chair of the Audit Committee to be made by Full Council on recommendation from the S151 officer</p> | Four Councillor members | Permitted |