

MEMBER CONDUCT COMMITTEE – 13TH DECEMBER 2021

Report of the Monitoring Officer

Part A

ITEM 8 REVIEW OF THE PLANNING CODE OF GOOD PRACTICE

Purpose of Report

To provide the Committee with an opportunity to review the Planning Code of Good Practice.

Recommendation

That the Committee considers the one consultation response and considers whether they wish to recommend any amendments, taking into consideration the Head of Planning and Regeneration comments.

Reason

To consider any proposals that have been made to amend the Planning Code of Good Practice.

Policy Justification and Previous Decisions

The functions and responsibilities of the Committee set out in the Council's Constitution include monitoring the operation of, and advising the Council on, the adoption or revision of codes and protocols relating to standards issues which included the Planning Code of Good Practice. The Committee last considered the Planning Code at its meeting on 2nd December 2019.

Implementation Timetable including Future Decisions

The Council reviews the Constitution each year. As part of the review consultation is has been undertaken with officers, and members of the Plans Committee and the Member Conduct Committee. It is planned to submit the results of the Constitutional review to the Cabinet on 7th April 2022 and then to Council on 25th April 2022.

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

No risks have been identified with this decision.

Background Papers: None

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Part B

Background

1. Members of the Plans Committee and the Member Conduct Committee, and the Head of Planning & Regeneration have been consulted by email about any amendments to the Planning Code of Good Practice that they felt may be beneficial.
2. The following response from a Member of the Plans Committee (Councillor Forrest) has been received about the Planning Code of Good Practice as follows:

'Chapter 24 – 7.2 – This refers to the call-in procedure whereby ward members can refer an application in their ward to the Plans Committee for consideration, rather than having it decided by officers. Could a sentence go in here that says if a member does this, then that member should be prepared to come and speak to the application at Plans Committee, or appoint some other ward member to represent him/her? This does generally happen but perhaps it is worthwhile having the process documented'

3. The Head of Planning and Regeneration responded with the following comments:

This has been a real frustration for the members of the Plans Committee over the last couple of years when some members call-in applications and then do not give committee the courtesy of attending to explain why they called it in. The Chair is of the view that many of these applications are not controversial in any way and could be dealt with using delegated authority and would like to send a strong message to councillors.

Councillor Forrest's suggestion is welcomed and for it to be effective it is suggested that the following wording be inserted into 7.2 of the Constitution:

'Where a ward councillor has called in an application to Plans Committee, they will attend the meeting to explain why it has been called in and their concerns. If they are unable to attend, they should nominate a substitute to stand in for them and express their views.'

The Call-in process is documented in section 2:12 (c) of the Other Meeting Procedures. There is a specific wording on page 12-12 that sets out an 'expectation to attend committee...' the question is whether the wording should be changed to be more direct than 'expect' to perhaps 'must'.

4. The current relevant sections of the Planning Code and the Other Meetings Procedures relating to Calling-in planning applications is set out below:

7 The Role of Ward Members

(Application: All Councillors)

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. 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 Regeneration 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 the meeting you should not circulate written information to the Committee.

12.12 Plans Committee Procedures

(c) Calling-in planning applications

After a planning application has been registered and made valid 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 is called-in to the Plans Committee which would otherwise have been determined by the Head of Planning and Regeneration 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, 21 calendar days from the date of the consultation being sent to the ward councillors or 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 & Regeneration.

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.

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 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.

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.

Ward councillors who call-in a planning application are expected 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, he/she is able to, and should, identify another councillor to speak on his/her behalf. The nominee can exercise the same ward councillor speaking rights as the councillor calling-in the planning application could have done if he/she 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/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 where no demonstrable harm would be caused to an interest of acknowledged importance
 - (vii) screening and scoping applications for Environmental Impact Assessments.
5. The Committee is asked to consider whether any further clarification is required within the Planning Code and the Other Meetings Procedures regarding ward councillors attending Plans Committee when they have Called-in a planning application.