

COUNCIL

15TH OCTOBER 2014

ENVIRONMENT

REPORT OF THE HEAD OF PLANNING

PART 1. SECTION A.

Proposed Changes to the Determination of Planning Applications

Purpose of the Report

To amend the size and operation of the Planning Committee in order to comply with emerging legislation from the Welsh Government.

Background

Members will be aware that the Welsh Government issued a consultation document on the 4th December 2013 entitled 'Positive Planning - Proposals to reform the planning system in Wales'. This was a precursor to the Planning Bill which was launched by the Welsh Government on the 6th October 2014. This report outlines the proposed changes which are to be introduced under the new Bill and as a consequence, proposed changes which we can introduce in advance of but in line with the Planning Bill. As a consequence there are seven recommendations, which are listed in full within this report.

A significant amount of research has been undertaken in order to demonstrate a robust evidence base for the forthcoming Planning Bill. One such piece of research related to the operation and performance of Planning Committees and as a consequence, the decision making process. This work was undertaken by Fortismere Associates with Arup. The aim of the research was to assess the efficiency and effectiveness of Planning Committees across all Local Authorities in Wales.

The research covers a number of key areas including delegated powers, Committee Protocols, Elected Member training, decision making procedures, committee size, site visits/deferrals/overtuns, public

speaking and customer care. As a consequence it identifies a number of recommendations going forward some of which have been incorporated into the Welsh Government consultation document.

The main recommendations within the research undertaken on behalf of the Welsh Government and their relevance to this authority's current practices are as follows:

1. The introduction of legislation to define the size of a planning committee, which should be between 11 (minimum) and 21 (Maximum) Elected Members. A quorum should also be introduced to be a minimum of 50% and should not include substitute members.
2. The introduction of a National scheme of delegation which shall be reviewed every three years. This requires that all matters be delegated to officers with only locally agreed exceptions.
3. The establishment of a National Planning Committee protocol, which will include an Elected Members code of conduct; involvement of Elected Members in pre-app discussions on major applications; distinguishing between decision maker and local representative roles at the Planning Committee; enhanced member training; site visit procedure; the role of Elected Members in an appeal following a refusal contrary to officers recommendation; an improved process of decision making; introduction of public speaking rights; improved customer care; the composition of the committee and; the need for a procedure to be in place when applications are over turned or deferred.
4. The provision of Elected Member training for all Planning Committee members which is consistent on a national basis, both in the initial stages and a requirement to have 10 hours of Continuous Professional Development per year thereafter. It is also proposed to establish a national network of Committee Chairs to allow networking opportunities and sharing of ideas similar to those which are currently available to officers.
5. The introduction of a procedure for site visits which should be included within a National Planning Committee Protocol. This will indicate that site visits should only be undertaken on an exceptional basis for major applications and where required should be based on published criteria. They should take place prior to the first

committee at which they are to be determined and should not include public speaking rights. Any members at a subsequent determining committee are able to vote regardless of whether they attended the site visit.

6. A cooling off period should be introduced where Elected Members are minded to determine an application contrary to the recommendation of an officer. This is in order to allow time to re-consider, manage the risk associated with this action and ensure that officers are able to provide robust reasons for refusal or conditions associated with an approval.
7. The introduction of public speaking rights at committee, ie who can speak, the order of speaking and the duration and the notification required prior to the meeting. Consideration should also be given to the need for a Wales wide set of materials indicating the amount of information a Local Planning Authority should provide to those who have made representations and have asked to speak, before the relevant meeting.
8. Best practice advice should identify the process to be followed in relation to customer care, in terms of on line availability of committee agendas and reports, signposting the meeting, room layout, introduction of those in attendance including the provision of nameplates and the use of audio visual presentation aids.

As stated above, these recommendations have been considered and endorsed by the Welsh Government as part of the Planning Bill and it is proposed to introduce the following through future legislation:

- A National scheme of delegation for officers to determine planning applications. This will not include the ability to use local discretion as it will undermine the objectives of efficient and consistent decision making powers across authorities. This aims to deliver 90% delegation across all authorities.
- A prescribed size (Between 11 and 21), make up and procedures within which Local Planning Authority Committees should operate.

Position Statement of this Authority and Proposed Recommendations

1. Size of the Planning Committee

Research undertaken by Fortismere Associates on behalf of WG has considered attendance records, the number of applications that are determined within the statutory period via Planning Committees and the number of applications where Officer's recommendations are over turned by Elected Members. This concluded that larger planning committees are less efficient and effective in terms of decision making and, as a consequence, they have recommended that the size of Planning Committees is reduced to between 11 and 21 Elected Members. The recent WG Consultation documents on proposals to reform the planning system confirm the intention to legislate to enforce the size of planning committees accordingly.

There are currently 45 Elected Members on the Planning Committee which is the second largest Planning Committee in Wales. In comparison, the Fortismere research has indicated that 19 out of the 25 LPAs had Planning Committees which operated at the time within these size parameters. This has now increased to 20.

In terms of this authority, we have a poor attendance record with on average only 68% of Planning Committee Members actually attending the meetings. Having scrutinised the records held by the Committee Services section in greater detail, it is evident that one Elected Member attended 0% of the Planning Committee meetings, with a total of 12 Elected Members attending 46% or less of the Planning Committee meetings. In contrast only 3 Elected Members attended 100% of the Planning Committee meetings. (Data collected for period between June 2012 – May 2013) There are only two other authorities in Wales who have poorer attendance records. Records also indicate that 0% of applications during the study period (April 2012 to March 2013) were determined by committee within the statutory determination period. This is quite a dramatic result given that overall Neath Port Talbot is one of the top performing authorities in Wales in terms of the determination of applications overall. These results align with the conclusions of the research undertaken, which indicates that the larger the Planning Committee, the less efficient and effective it is in terms of delivering timely decisions.

Having regard to the above, and the clear direction of travel of WG as demonstrated in their recent consultation, there is nothing to prevent the

Council changing the size of the Planning Committee, in readiness for the next cycle of meetings on the 11th November 2014. The benefits of reducing the size of the Planning Committee will be numerous, as it will result in the ability of the LPA to improve the training programme for those Elected Members on the Planning Committee; enable the introduction of public speaking rights; and allow the meetings to be conducted in a more user friendly environment where members of the Public can see and hear the meeting as it operates. All of these issues are covered in greater detail elsewhere within this report.

It should be noted that a reduction in the number of Elected Members will not undermine the democratic process as it will still allow the democratic process to operate to its full potential, as all Elected Members of the Council will retain the ability to attend the meeting to represent their constituents in accordance with the public speaking protocol which will be covered later in this report.

Given that it is recommended that the number of Planning Committee Members is reduced, it is also necessary to address the quorum level for this Committee. The Council currently has a quorum level across all Boards and Committees of 25%. If this figure was applied to the Planning committee in its reduced size, it would result in potentially only 3 Elected Members making what can be very strategically important and controversial planning decisions. This is recognised within the research which underpins the new Planning Bill which recommends that in order to ensure that robust decisions are made, the quorum for Planning Committees should be raised to 75% but no less than 50% of Elected Members. This would not, however, impact upon the quorum levels for the other Boards and Committees which operate across the Council.

In addition to the above, one of the objectives of the Planning Bill is to instigate culture change in relation to Planning, whereby planning is seen to be enabling rather than obstructive. This will not be achieved overnight and can only be achieved when all development practitioners work together to achieve positive outcomes. Nevertheless in order to contribute towards improving the perception of the decision making process associated with the planning function it is proposed to amend the name of the Committee from the 'Planning and Development Control Committee' to the 'Planning Committee'.

Recommendation 1

The name of the committee is amended to remove reference to Development Control and the size of the Planning Committee is reduced to 12 Elected Members, with the quorum level for the Planning Committee increased from 25% to 50% of Members. The Cabinet Member with responsibility for the planning function will also attend the Meeting as an observer only, with no voting rights. Ward Members and adjoining Ward Members (relevant to the applications being considered by Committee) will also be invited to attend the Committee meeting although they will not have the ability to vote. It is proposed to implement the changes to the size of the Planning Committee by the 11th November 2014.

2. Delegation

This authority has been pragmatic and forward thinking in terms of improving the efficiency of the Planning service whilst also safeguarding the democratic process and providing for the needs of all of our customers. As a consequence of an extensive review of the Development Control service in 2008, the delegated powers were considered and revised in conjunction with improvements to the quality and level of information provided to Elected Members in relation to delegated applications and those that were determined by Committee. This has resulted in an improvement in the relationship between Officers and Elected Members in addition to an improvement in decision making both qualitatively and quantitatively. Our delegation levels currently result in 95% of applications being determined under delegated powers.

There are two forms of delegated powers which have been in operation in this format since 2008. The first is what is referred to as 'Normal Delegated Powers'. These authorise, the Head of Planning, the Development Control Manager and the existing two Development Control team leaders to determine applications without seeking authorisation from Elected Members. They relate only to minor non controversial developments, for example an extension to a domestic property which accords with guidance, has not been the subject of any objections and is acceptable hence is recommended for Approval (A full list is contained within Appendix A).

The second form of delegated powers is referred to as 'Delegated Panel Powers'. These relate to more complex applications and are reported to a

panel of no less than three senior officers (the panel must include the Head of Planning and/or the Development Control manager, with the remainder being either team leaders and/or senior planning officers). If the recommendation is accepted by the panel, the case officer contacts each of the relevant Elected Ward Members and advises them of the development and associated recommendation. Authorisation is then sought to issue the decision notice. It is only when that authorisation is given that the Officer can issue the planning permission. (A full list of applications covered by Delegated Panel Powers is contained within Appendix A).

This is currently working well and as such does not require wholesale revision, however given changes to the legislation and guidance since 2008, the list of applications and other related matters which are required to be determined under delegated powers as opposed to delegated panel powers needs to be revised. This includes but is not limited to procedures associated with National Strategic Infrastructure Projects (NSIP's) which require information from LPA's at various different stages before the Planning Inspectorate (PINs) will register an application. A list of applications which are currently considered under delegated and delegated panel powers together with the proposed changes are listed in Appendix A of this report.

Recommendation 2

That no fundamental changes are made to the delegated powers, other than the addition of matters relating to NSIPs, and prior notifications for demolition together with other minor clarifications and additions of applications/procedures to ensure that all parts of the Development Management service are covered. It is also proposed to transfer some matters that are currently determined under delegated panel powers to delegated powers. This will make the system more efficient without undermining the democratic process or customer care. These changes are identified in detail within Appendix A and will be incorporated into the Constitution with immediate effect.

3. National Planning Protocol

The establishment of a National Planning Committee protocol is not a matter that can be introduced by this authority and will require further clarification from the Welsh Government. Nevertheless many of the items referred to as being needed within the protocol are already in place

within this authority. For example, we already have a Members code of conduct, efficient and quality decision making, a defined site visit procedure and excellent levels of customer care.

Notwithstanding the need to wait for a National Protocol to be introduced, there are a number of improvements which can be introduced in advance, thus further reinforcing the pragmatic and forward thinking attitude and approach of this authority. These are as follows:

The operation of and procedures followed within the Planning Committee

One of the recommendations within the research focuses on customer care and ensuring that members of the public are aware of the procedures associated with the operation of the Planning Committee, in addition to being able to hear the debate which takes places and the decisions which are being made. It is evident that whilst the Council Chamber is steeped in history, it is not an ideal venue for members of the public to easily engage in the meetings.

As a result and subject to the agreement of recommendation 1 above, it would seem more appropriate to conduct meetings in a smaller venue where presentations can be given which can be heard and seen by all of those in attendance. Examples of such venues include Meeting rooms 1 and 2 in Port Talbot Civic Centre in addition to Committee Rooms A and B in Neath Civic Centre. There will be exceptions to this, when for example more controversial and/or strategically important applications are being presented and are likely to attract larger interest from the general public. Given that the chamber is not regularly used, the Planning Committee can be relocated to the chamber as and when required.

In order to ensure transparency in respect of the roles and responsibilities of Officers, Elected Members and the general public when participating in the Planning Committee, it is recommended that a procedure note is developed and made available to view on the internet.

Concerns have also been expressed in the past by members of the public that they do not clearly understand whether a decision has been made, what that decision is and who voted on that decision. This is particularly so given that Elected Members currently demonstrate their support or otherwise for a recommendation by raising their hand. Whilst this is readily visible for some Elected Members, others are less obvious. Given

that members of the public sit behind Elected Members and at some distance from them, it is not often clear to them what the decision was and who voted in favour of it.

In order to make the planning process more transparent and accountable it is therefore recommended that the decision in relation to each planning application is clearly conveyed to the room by the Chair of Planning, who will also confirm the number of votes in favour and against the recommendation together with those who abstain. This will allow all members of the public to be clear on a decision and how it was made. This is not currently practical given the size of the Planning Committee, however if the Planning Committee is reduced to twelve Elected Members, with a thirteenth Member acting as an observer, as recommended earlier in this report, this will be far more achievable.

In addition to the operation of the Planning Committee, consideration needs to be given to the procedure associated with late items of correspondence. It is often the case that late letters of support and objection are submitted the day before the Planning Committee or even on the day of the Committee itself. In extreme cases, items of correspondence have been submitted during the Committee meeting and a summary of the correspondence together with the officer's response has been given by the officer whilst conducting the meeting. This process can be disjointed and needs to be refined. As a result it is recommended that the policy of the LPA in relation to correspondence associated with a planning application be amended to state that correspondence will not be taken into account in the determination of the associated application, if it is submitted after the penultimate working day immediately preceding the associated Planning Committee to which the application which is the subject of the correspondence is reported. This will ensure that all late correspondence is received in sufficient time to be included within an amendment sheet presented to Elected Members and will also ensure that it is considered at the Pre-Committee meeting which is attended by relevant officers in addition to the Chair and Vice Chair of Planning. This will also allow officers to forward a copy of any Amendment Sheet to Elected Members on the afternoon before the Planning Committee, thus enabling them to be in receipt of all late correspondence and changes in sufficient time before the Planning Committee commences.

Recommendation 3

This recommendation is in four parts and aims to improve transparency in decision making and improved customer care in terms of the operation of the Planning Committee. It proposes to:

- Prepare a procedure note to advise all interested parties on the operation of the Planning Committee. To hold the majority of meetings within smaller venues which are more customer focused, where presentations and debate can be clearly seen and heard, and where the name and position of each officer and Elected Member is clearly identified.
- Ensure that the decision of the Planning Committee is clearly conveyed to all present by the Chair of Planning and the number of votes, in favour and against the recommendation, together with the number of Elected Members who abstained is conveyed to all those present at the Committee
- Amend the procedure associated with late correspondence whereby a cut off period for the receipt of correspondence will be introduced which will restrict the submission and subsequent consideration of correspondence which is submitted after the penultimate working day immediately preceding the associated Planning Committee will be introduced.
- Amend the procedure associated with the distribution of Amendment Sheets and the Committee presentation whereby both are circulated to Elected Members of the Planning Committee before the end of the working day preceding the associated Planning Committee. If it is necessary to pick up alterations within the report after this date then a further amendment will be circulated but this should be the exception rather than the rule.

The above four points will be implemented in preparation for the 11th November Committee or soon after.

4. Elected Member Training

Whilst training is currently provided on planning related topics to all Elected Members of the Council, to date this has not formed part of an organised and continuous programme, but has mainly concentrated on training for new Elected Members following their election to post in addition to updates in new legislation for all Elected Members throughout the year. It is therefore acknowledged that a coordinated programme of

training for Elected Members, especially for those who sit on the Planning Committee, would significantly benefit the decision-making process in general.

The training programme needs to be mandatory for all Planning Committee Members, but should also be made available to all Elected Members given that they will at some point have contact with the planning system. The enforcement of such attendance will be the responsibility of each of the political groups represented within the Council. A programme of training events will be drawn up in advance to ensure that diary conflict for Members is minimised, and will include trainers from within and outside the council to ensure that a broad range of planning topics are covered. Annual feedback can be given to the Leaders of all the Political Parties represented within Neath Port Talbot, with regard to the attendance of their Elected Members at the Planning Committee, in addition to their attendance at the training events which have been organised for them.

Recommendation 4

That a targeted programme of training for all Elected Members is established, with such training being mandatory for all members of the Planning Committee (10 hours per annum).

5. Committee Site Visits

The current practice associated with the operation of the Planning Committee, results in a full presentation being made to the Committee by the Officer, following which a debate ensues. Should an Elected Member request a site visit, they put forward a motion giving clear reasons why they consider that a site visit would be appropriate. This motion requires support from another Elected Member. If that support is forthcoming, Members of the Planning Committee vote on the motion, which if accepted results in the deferral of the planning item to the Planning Site Visits Sub-Committee.

The Sub-Committee then visits the site on the Thursday of the following week and receives a further presentation of the application, following which the Sub-Committee convenes at the Council offices for a further presentation and debate. The Sub-Committee then vote on the Officer's recommendation and the outcome forms a recommendation of the Sub-

Committee which is reported back to a subsequent Planning Committee for determination.

At this meeting the item is presented again with two recommendations, one from the Officer and the other from the Site Visits Sub-Committee. This meeting can often lead to a further debate of Elected Members before reaching a final decision.

The above process results in a degree of repetition and delay, and additional work for Officers as reports and presentations have to be prepared for a total of three different meetings. Accordingly, and having regard to the changes proposed to the size of the Planning Committee above, it is considered that the process can be streamlined to prevent duplication and save administrative costs, resulting in a more efficient and less bureaucratic site visits procedure.

It is therefore proposed to change the site visits protocol as follows:

- The request for site visits will be made by an Elected Member, who will clearly state the reason for making that request at the beginning of the meeting.
- The Officer will respond to that request, through the Chairperson indicating whether or not that request is reasonable and whether it will indeed add value to the decision making process. (A guidance note will be prepared for Members indicating in what circumstances a site visit should be requested).
- The Committee will vote on that request and if the vote is in favour of a site visit, the application to which the request applies will be considered as being deferred for a Committee Site Visit. If the vote is against a site visit, the application will be presented and debated as originally proposed when that item on the agenda is reached.
- Subject to Recommendation 1 (size of Committee) being accepted, the deferred site visit will take place on the morning of the next Planning Committee and will be open to **all Elected Members of the Planning Committee** to attend. The non attendance of an Elected Member at the site visit will not however prevent them from later considering the application. A brief presentation will be made on site and questions can be asked by Elected Members on site. Whilst members of the public can attend the site visit, they cannot make representations at the meeting. No decision is made at the site visit, nor is the item debated.

- The application which was the subject of the site visit is then presented for determination at the Planning Committee that afternoon, where objectors/supporters/ applicant will be allowed to speak in accordance with the public speaking protocol (see recommendation 7 below).

Recommendation 5

That the Committee Site Visits procedure is amended to ensure that items are requested for site visit prior to being debated within the meeting. The site visit is subsequently undertaken by the full Planning Committee on the morning of the next Planning Committee, with the debate and decision being undertaken/ made within the Planning Committee meeting in the afternoon. This amended procedure is to take affect from the 11th November 2014.

6. Introduction of a cooling off period

The research has indicated the need for a cooling off period following a decision which is taken contrary to Officer recommendation. This is not considered to be an issue within this authority at the moment given that the number of applications which are determined contrary to Officer recommendation is fairly limited. It is not therefore a matter which should be progressed in advance of a national system being introduced.

Furthermore there is already a system in place whereby applications which are determined contrary to an Officer recommendation, and which are also departures from the Development Plan, are required to be reported to Cabinet. Whilst Cabinet do not determine these applications, they consider the Officers report, together with the resolution of the Planning Committee and the reasons why they propose to over-turn the officer's recommendation, and make a recommendation back to the Planning Committee. The Planning Committee is then required to make a decision based on all of the aforementioned recommendations.

This is considered to be a very robust procedure and it is not therefore recommended for change at the present time.

Recommendation 6

It is not proposed to make any changes to the current decision making process in relation to applications which are determined contrary to an officer recommendation.

7. Public Speaking Rights at Planning Committee

The research undertaken demonstrates that we are one of only two LPA's who do not currently permit public speaking at the Planning Committee, with the other LPA currently in the process of introducing public speaking rights. This would leave the Council as the only LPA in Wales who do not afford our constituents and developers the ability to address the Planning Committee.

The research has concluded that public speaking rights improve the quality of decision making as interested parties on behalf of both the applicant and any supporters/objectors are able to voice their concerns directly to Elected Members who sit on the Planning Committee, thus making the decision making process more democratic, responsive and transparent.

As a consequence it is considered essential that we move forward with the introduction of public speaking rights as a priority. It is however essential that this is introduced in accordance with an agreed public speaking protocol, to ensure that it does not lead to confusion to any party and also to ensure that it does not result in additional bureaucracy. The Public speaking protocol will not undermine the ability of any Elected Member to speak at Committee in accordance with the existing arrangements as defined within the Constitution. A Public Speaking protocol has been prepared and is attached as Appendix B to this report which, if accepted, will be made available to the public via the Council's website.

Recommendation 7

Public speaking rights are introduced in accordance with a Public Speaking Protocol, coordinated by the Committee Services Officer. This recommendation will be implemented as soon as practicable following the changes to the size of the Planning Committee coming into effect.

Recommendations

It is recommended that Council Approve the following recommendations, with a provision that the changes be reviewed within six months following full implementation:

Recommendation 1

The name of the committee is amended to remove reference to Development Control and the size of the Planning Committee is reduced to 12 Elected Members, with the quorum level for the Planning Committee increased from 25% to 50% of Members. The Cabinet Member with responsibility for the planning function will also attend the Meeting as an observer only, with no voting rights. Ward Members and adjoining Ward Members (relevant to the applications being considered by Committee) will also be invited to attend the Committee meeting although they will not have the ability to vote. It is proposed to implement the changes to the size of the Planning Committee by the 11th November 2014.

Recommendation 2

That no fundamental changes are made to the delegated powers, other than the addition of matters relating to NSIPs, and prior notifications for demolition together with other minor clarifications and additions of applications/procedures to ensure that all parts of the Development Management service are covered. It is also proposed to transfer some matters that are currently determined under delegated panel powers to delegated powers. This will make the system more efficient without undermining the democratic process or customer care. These changes are identified in detail within Appendix A and will be incorporated into the Constitution with immediate effect.

Recommendation 3

This recommendation is in four parts and aims to improve transparency in decision making and improved customer care in terms of the operation of the Planning Committee. It proposes to:

- Prepare a procedure note to advise all interested parties on the operation of the Planning Committee. To hold the majority of meetings within smaller venues which are more customer focused, where presentations and debate can be clearly seen and heard, and where the name and position of each officer and Elected Member is clearly identified.

- Ensure that the decision of the Planning Committee is clearly conveyed to all present by the Chair of Planning and the number of votes, in favour and against the recommendation, together with the number of Elected Members who abstained is conveyed to all those present at the Committee
- Amend the procedure associated with late correspondence whereby a cut off period for the receipt of correspondence will be introduced which will restrict the submission and subsequent consideration of correspondence which is submitted after the penultimate working day immediately preceding the associated Planning Committee will be introduced;
- Amend the procedure associated with the distribution of Amendment Sheets and the Committee presentation whereby both are circulated to Elected Members of the Planning Committee before the end of the working day preceding the associated Planning Committee. If it is necessary to pick up alterations within the report after this date then a further amendment will be circulated but this should be the exception rather than the rule.

The above four points will be implemented in preparation for the 11th November Committee or soon after.

Recommendation 4

That a targeted programme of training for all Members is established, with such training being mandatory for all Elected Members of the Planning Committee (10 hours per annum).

Recommendation 5

That the Committee Site Visits procedure is amended to ensure that items are requested for site visit, prior to being debated within the meeting. The site visit is subsequently undertaken by the full Planning Committee on the morning of the next Planning Committee, with the debate and decision being undertaken/ made within the Planning Committee meeting in the afternoon. This amended procedure is to take affect from the 11th November 2014.

Recommendation 6

It is not proposed to make any changes to the current decision making process in relation to applications which are determined contrary to officers recommendations.

Recommendation 7

Public speaking rights are introduced in accordance with a Public Speaking Protocol, coordinated by the Committee Services Officer. This recommendation will be implemented as soon as practicable following the changes to the size of the Planning Committee coming into effect.

Reason for Proposed Decision

To enable changes to be made to the size and operation of the Planning Committee in accord with emerging Welsh Government legislation.

Financial Appraisal

There will be no additional costs associated with the implementation of the proposed recommendations.

Consultation Outcome

The report has been the subject of internal consultations and its final form reflects the outcome of that process.

Sustainability Appraisal

The proposed changes will introduce a more transparent and accessible decision making process which is in accord with sustainability principles.

List of Background Papers

- Positive Planning – Proposals to Reform the Planning System in Wales
- Study into the Operation of planning Committees in Wales – Fortismere Associates with Arup.
- Planning (Wales) Bill, as introduced

Wards Affected

All

Appendices

Appendix 1 – Existing and Proposed Delegated Arrangements

Appendix 2 – Public Speaking Protocol

Contact Officer

Nicola Pearce – Head of Planning

Tel: 01639 686681

E-mail: n.pearce@npt.gov.uk

Existing Delegated Arrangements

Normal Delegated Matters / Applications (para 16 of Annex J to the current Constitution)

16. Planning

- (i) to determine all applications in respect of the Building Regulations.
- (ii) to authorise the issue of infringement notices and any enforcement action with respect to Building Regulations.
- (iii) to approve (but not to refuse) with or without conditions in respect of applications relating to the following matters subject to there being no objections and following consultations with local Ward Members and subject to the provisions of the Planning Code of Conduct:-
 - (a) the development of private garages either individually or in blocks.
 - (b) changes of use not conflicting with the Development Plan or other approved planning policies.
 - (c) the topping, lopping or carrying out of other works, excluding felling, of trees the subject of tree preservation orders or of planning conditions.
 - (d) the construction of extensions to residential, industrial, commercial or non commercial properties and carrying out of alterations to existing residential, industrial, commercial or non commercial properties including prior approval applications (other than alterations to Listed Buildings or to buildings within a Conservation Area).
 - (e) the construction of buildings and/or the carrying out of engineering operations within the curtilage of residential, industrial, commercial or non commercial premises, including prior approval applications.
 - (f) the construction of vehicular accesses and the erection of fencing, gateways and walls.
 - (g) approval of reserved matters (siting, design, external appearance, means of access and landscaping) and/or the discharge of conditions imposed on outline permission for up to

five dwellinghouses, or up to 500 sq.m of industrial, commercial or non commercial buildings.

- (h) for the display of advertisements.
 - (i) variation of house types and external finishes.
 - (j) consultations received from adjoining authorities, the National Assembly and/or CADW requiring a reply within a specified time period of 28 days or less.
 - (k) the discharge of conditions imposed on a planning consent.
 - (m) applications made under Section 37 of the Electricity Act 1989 for overhead electricity lines.
 - (n) applications made by the Royal Mail for Mail Pouch Boxes
- (iv) to determine whether Prior Approval is required for such matters as demolition, agricultural or forestry buildings, engineering or excavation operations relating to agriculture, the formation, alteration or maintenance of private ways relative to forestry, or the installation of telecommunications equipment.
- (v) the making of provisional Tree Preservation Orders.
- (vi) to determine whether or not an Environmental Statement is required on any submitted or proposed planning application.
- (vii) Lawful Development Certificates of Existing Use or Development or Proposed Use or Development where this relates to development coming within paragraphs (iii) a,b,d,e or f.
- (viii) Prior approval applications for the method of demolition of buildings and any proposed restoration of the site.
- (ix) Approval of applications for single dwellings not conflicting with the Development Plan.
- (x) Telecommunications Prior Approval Procedures - Code of Best Practice That, where difficulty arises with Committee Cycles, to approve prior approval applications, subject to consultation with appropriate Members and subject to there being no objections to the proposals.
- (xi) Harmonisation and Delegation of Planning Enforcement Procedures

- (a) To serve a Planning Contravention Notice;
 - (b) To serve a Breach of Condition Notice;
 NB: The authority to serve all Enforcement Notices, Stop Notices and to seek Injunctions to be a matter for the Planning Committee; the system of non-statutory Action Warning Notices is as endorsed in Minute 2 Page 1409 (March 1997);
- (xii) Hedgerow Regulations 1997 To approve Hedgerow Removal Notices, under the Hedgerow Regulations 1997 where a hedgerow is not "important", subject to there being no objection to the issue of such Notice from the public or local Members.
- (xiii) Building Act 1984
- (a) Delegated powers for the elements of the Planning Service covered by legislation under the Building Act 1984.
 - (b) To authorise individual Officers to act as Inspectors/Authorised Officers/Enforcement Officers under legislation contained in the Building Act 1984.
 - (c) In consultation with the Director of Finance and Corporate Services, to approve legal proceedings on behalf of the Council in respect of any offence under the above Act. (This delegation also applicable to the Principal Officer (Building Control)).
- (xiv) Safety at Sports Ground Act 1975
 To issue and sign the relevant Safety Certificates under the Safety at Sports Ground Act 1975 (as amended) and to take any enforcement action. (the latter to be reported to the Planning Committee for information)
- (xv) Forestry Authority - Consultations on Felling Proposals
- (a) where there are no objections, the response to the Forestry Authority is delegated to the Director;
 - (b) where objections are raised by local Members, relevant Community Councils, or by Officers, that the Director be delegated the power to request that this Authority be granted an extension of time, or to submit an objection to the Forestry Authority. The matter would then be reported to the next available Planning Committee for consideration and that Committee be given plenary powers to resolve the Authority's formal decision. Relevant local Members would be invited to

attend the Committee and any site visits, but would not be entitled to vote, in the same manner as in the determination of planning applications;

(xvi) Minor Amendments to approved planning applications.

To determine whether a minor amendment to an approved planning application is immaterial, subject to there being no objection to the proposal – if there are, then the matter be referred to Committee for determination.

(xvii) Planning Appeals

To determine, in consultation with the local Member(s), the appropriate type of appeal method (Written Representations, Public Inquiry or Hearing).

(xviii) Neath and Port Talbot Local Access Forum

To determine future changes to the membership of the forum in consultation with either the Leader or Deputy Leader.

(xix) Section 106 Agreements

To authorise the entering into of Section 106 Agreements under the Town and Country Planning Act 1990 relating to developers carrying out highway works required under conditions imposed on a planning consent

(xx) Rights of Entry

To authorise rights of entry to relevant Officers in respect of the following legislation:-

(a) Town and Country Planning Act 1990 (as amended) – Section 324;

(b) Wildlife and Countryside Act 1981 (as amended) – Section 51;

(c) Planning (Listed Building and Conservation Areas) Act 1990 (as amended) – Sections 88 – 88B;

(d) Planning (Hazardous Substances) Act 1990 (as amended) – Sections 36-36B;

(e) Highways Act 1980 – Section 293;

(f) Road Traffic Regulation Act 1984 – Section 71.

(g) Anti Social Behaviour Act 2003 (High Hedges) – Section 74

(xxi) Planning (Hazardous Substances Act 1990 and Planning (Hazardous Substances) Regulations 1992

Section 9 - determination of applications for hazardous substances consent.

Section 11 - deemed hazardous substance consent: established presence.

Section 13 - applications for removal of conditions attached to hazardous substances consents.

Section 14 - general power by order to revoke or modify hazardous substances consent.

Section 18 - determination of applications for continuation of hazardous substances consent.

(xxii) High Hedges – to determine High Hedge applications under Section 65-84 of the Anti Social Behaviour Act 2003 (in consultation with the relevant Cabinet Member and Ward Members).

(xxiii) Minor Amendments to Planning Applications not yet determined – to determine whether amendments to submitted planning applications require to be treated as new applications, or whether to undertake alternate actions; such delegated powers to be exercised utilising the procedure in the Planning Report 20.4.05. The Planning delegations above are specifically applicable also to the Head of Planning.

All other applications which are not listed above and which are not covered under the exemptions below are currently determined under Delegated Panel powers:

Except as listed below, the Director of Environment and the Head of Planning are granted Delegated Powers for the determination of all planning and other related matters / applications, including the preparation of screening and scoping opinions, discharge of conditions, tree preservation orders, hedgerow and high hedges applications and enforcement matters.

1. Where an application is considered to be of strategic importance, or where it is considered by Officers to be appropriate to be determined by Members, taking into account the views of Members where they have requested an application to be

considered at Committee (*note: the member process agreed is set out below in note 1*)

2. Where an application is to be recommended for approval contrary to development plan policy.
3. Where an application has been submitted by a Member of the Council or close relative of a Member.
4. Where an application has been submitted by an employee of the Council who is directly involved in the development control process. (Refer to attached appendix for a list of the posts identified)

Proposed changes to the delegated powers are as follows:

Delegated Powers (subject to no objections)

- (iii) to approve (but not to refuse) with or without conditions in respect of applications relating to the following matters subject to there being no objections and following consultations with local Ward Members and subject to the provisions of the Planning Code of Conduct:-
 - (o) Submission of all responses in respect of Nationally Significant Infrastructure Projects (NSIPs), with the exception of the Authority's primary response to the Planning Inspectorate on the application, which shall be reported to Committee,
 - (p) Deeds of variation, seeking to vary the terms of an existing Section 106 legal agreement,
 - (q) Decisions on applications made under section 73 to develop land without compliance with conditions previously attached to a consent.
 - (r) to determine the scope of an Environmental Statement ("Scoping Opinion") on any submitted or proposed planning application.
- (iv) to determine whether Prior Approval is required for such matters as demolition, agricultural or forestry buildings, engineering or excavation operations relating to agriculture, the formation, alteration or maintenance of private ways relative to forestry, or the installation of telecommunications equipment, **and determination of subsequent applications for such prior approval**

Proposed New Delegated Arrangements
Delegated Matters (para 17 of Annex J to the current Constitution)

17. Planning

(i) General Planning Delegation

A. Determination of Applications / matters by the Planning and Development Committee

The Planning & Development Committee will determine all applications / matters which fall within the following criteria: -

1. Where an application is considered to be of strategic importance, or where it is considered by Officers to be appropriate to be determined by Members, taking into account the views of Members where they have requested an application to be considered at Committee (*note: the member process agreed is set out in the Appendix*).
2. Where an application is to be recommended for approval, and where it is considered by Officers that the proposals would materially depart from Policies within the Development Plan.
3. Where an application has been submitted by a Member of the Council or close relative of a Member.
4. Where an application has been submitted by an employee of the Council who is directly involved in the Development Management process or in a post identified below: -
 - Director of Environment
 - Head of Planning
 - All posts under the direct responsibility of the Head of Planning
 - Head of Engineering and Transportation
 - Highways Development Control Officers
 - Drainage Officers
 - Head of Regeneration
 - Head of Streetcare
 - Head of Legal and Democratic Services
 - Committee Clerk (Planning)
 - Principal Solicitor (Planning)

Except as listed above, the Director of Environment and the Head of Planning are granted Delegated Powers for the determination of all planning and other related matters / applications, including the preparation of screening and scoping opinions, discharge of conditions, tree preservation orders, hedgerow and high hedges applications, appeals and enforcement matters, in accordance with the following procedures: -

B. 'Delegated Panel' Procedure

To determine applications relating to the following matters and following agreement with local Ward Members and subject to the provisions of the Planning Code of Conduct: -

- Refusal of Applications
- Developments in excess of 5 dwellings (including approval of reserved matters and/or the discharge of conditions in respect of the same);
- Developments creating new floorspace in excess of 500 sq.m. in respect of industrial, agricultural, commercial or non-commercial buildings (including approval of reserved matters and/or the discharge of conditions in respect of the same)
- Submission of all responses in respect of Nationally Significant Infrastructure Projects (NSIPs), unless considered to be strategically important in which case it shall be reported to Committee
- Deeds of Variation, seeking to vary the terms of an existing Section 106 legal agreement
- Planning Enforcement Procedures, including: -
 - (a) To serve a Planning Contravention Notice;
 - (b) To serve a Breach of Condition Notice;
 - (c) To serve an Enforcement Notice;
 - (d) To serve a Stop Notice
 - (e) To serve a Notice under s215 (Amenity of Land) of the 1990 Act (as amended)
 - (f) To initiate prosecution action or injunctions
 - (g) To withdraw or amend any formal Notice under points (a) – (e)
- Felling of trees covered by Tree Preservation Order

C. 'Normal' Delegated Matters (subject to no objections being received)

(i) to approve (but not to refuse) with or without conditions in respect of all other planning applications or matters not covered by point (i) above, subject to there being no objections, including (but not limited to): -

- Development of up to 5 dwellings (including approval of reserved matters and/or the discharge of conditions);
- Developments creating new floorspace up to 500 sq.m. in respect of industrial, agricultural, commercial or non-commercial buildings (including approval of reserved matters and/or the discharge of conditions)
- Applications to determine whether or not an Environmental Statement is required on any submitted or proposed planning application ("Screening Opinion")
- Applications to determine the scope of an Environmental Statement ("Scoping Opinion") on any submitted or proposed planning application.
- Applications for a Certificate of Lawful Use of Development (Existing and Proposed)
- Decisions on applications made under section 73 to develop land without compliance with conditions previously attached to a consent.
- Discharge of conditions imposed on a planning consent.
- the topping, lopping or carrying out of other works, excluding felling, of trees the subject of tree preservation orders or of planning conditions.
- Determination of 'Prior Approval' ("Prior Notification") applications, including determination of subsequent applications for such prior approval
- Making of Tree Preservation Orders
- To approve Hedgerow Removal Notices, under the Hedgerow Regulations 1997 where a hedgerow is not "important"
- Applications under the Planning (Hazardous Substances) Act 1990 and Planning (Hazardous Substances) Regulations 1992 including:- determination of applications for hazardous substances consent (HSC) (s9); deemed HSC: established presence (s11); applications for removal of conditions attached to HSC (s13); general power by order

to revoke or modify HSC (s14) and determination of applications for continuation of HSC (s18).

(ii) Section 106 Agreements: To authorise the entering into of Section 106 Agreements under the Town and Country Planning Act 1990

(iii) to determine all applications in respect of the Building Regulations.

(iv) to authorise the issue of infringement notices and any enforcement action with respect to Building Regulations.

(v) Building Act 1984

(a) Delegated powers for the elements of the Planning Service covered by legislation under the Building Act 1984.

(b) To authorise individual Officers to act as Inspectors/Authorised Officers/Enforcement Officers under legislation contained in the Building Act 1984.

(c) In consultation with the Director of Finance and Corporate Services, to approve legal proceedings on behalf of the Council in respect of any offence under the above Act. (This delegation also applicable to the Principal Officer (Building Control)).

(vi) Safety at Sports Ground Act 1975: To issue and sign the relevant Safety Certificates under the Safety at Sports Ground Act 1975 (as amended) and to take any enforcement action (the latter to be reported to the Planning Committee for information)

(vii) Forestry Authority - Consultations on Felling Proposals

(a) where there are no objections, the response to the Forestry Authority is delegated to the Director;

(b) where objections are raised by local Members, relevant Community Councils, or by Officers that the Director be delegated the power to request that this Authority be granted an extension of time, or to submit an objection to the Forestry Authority. The matter would then be reported to the next available Planning Committee for consideration and that Committee be given plenary powers to resolve the Authority's formal decision. Relevant local Members would be invited to attend the Committee and any site visits, but would not be entitled to vote, in the same manner as in the determination of planning applications;

(viii) Neath and Port Talbot Local Access Forum

To determine future changes to the membership of the forum in consultation with either the Leader or Deputy Leader.

(ix) Rights of Entry

To authorise rights of entry to relevant Officers in respect of the following legislation:-

- (a) Town and Country Planning Act 1990 (as amended) – Section 324;
- (b) Wildlife and Countryside Act 1981 (as amended) – Section 51;
- (c) Planning (Listed Building and Conservation Areas) Act 1990 (as amended) – Sections 88 – 88B;
- (d) Planning (Hazardous Substances) Act 1990 (as amended) – Sections 36-36B;
- (e) Highways Act 1980 – Section 293;
- (f) Road Traffic Regulation Act 1984 – Section 71.
- (g) Anti Social Behaviour Act 2003 (High Hedges) – Section 74

(ix) Developer Contributions (Supplementary Planning Guidance)

To determine issues of arbitration between different needs prior to any form of decision by the Planning and Development Control Committee (this in consultation with the relevant Cabinet Member).

(x) Affordable Housing Contribution

The Head of Planning is granted delegated authority to review and make any necessary amendments to the charge levied for the negotiation of the Affordable Housing Contribution

(xi) Safety of Stands for Spectators – Section 42 West Glamorgan Act 1987

The powers to the Authority under Section 42 are delegated to the Director of Environment and the Head of Planning.

(xii) Retaining Walls – Section 26 West Glamorgan Act 1987

The powers of the Authority under Section 26 are delegated to the Director of Environment and the Head of Planning

APPENDIX

Delegation Process (Development Management Matters / Applications)

1. To maintain accountability and transparency, detailed reports will be prepared for all delegated matters / applications outlining the material issues for consideration together with a recommendation.
2. In the case of 'Normal' Delegated Matters (para 17 (i) C of Annex J), each report is to be signed by the Case Officer and Development Control Manager / Team Leader or in their absence the Head of Planning, prior to issuing the decision notice
3. Where applications are being dealt with under the 'Delegated Panel' procedure (para. 17 (i) B. of Annex J), a panel of Officers (a minimum of three, including the Head of Planning and/or the Development Control Manager) will consider and sign off the report and its recommendation, in addition to which the following additional process will apply:-
 - (a) Where following consultation with officers the relevant Ward Member(s) have agreed that the application can be determined the delegated decision can be made.
 - (b) if any Ward Member considers that it would be more appropriate to report the application to Committee for decision, Officers will put the matter before Committee provided a valid planning reason has been given by the Ward Member (such reason to be clearly indicated within the subsequent report to Committee);
 - (c) In the absence of any agreement under (a) or representation under (b) that the relevant Ward Member(s) be advised of the proposed decision via e-mail, giving 7 days to respond to a named officer(s) within the Department. Responses will be dealt with in accordance with (a) or (b), but if no response is received, it will be assumed that the relevant Members are satisfied that the application can be continued to be dealt with under delegated powers and the decision notice will be issued.

Appendix B

Public Speaking Protocol

Public speaking at the Planning Committee will be allowed strictly in accordance with this protocol. This protocol shall not apply to delegated items unless they are referred to Planning Committee for determination in accordance with the operation of the scheme of delegation.

Who Can Speak

Speaking will be limited to one member of the public opposing a development and one member of the public supporting a development. When there is more than one person in opposition or support, the relative groups should work together to establish a spokesperson. In the event of no agreement being reached, the right to speak shall fall to the first person to register a request. When an objector has registered to speak the applicant or agent will be allowed the right of reply. Elected Members who do not sit on the Planning Committee still retain the ability to attend the meeting and with the permission of the Chair of Planning, can speak at the Committee meeting in accordance with the current procedures as specified within the Constitution.

Registering Requests to Speak

To register a request to speak the objector or supporter must first have made written representations on the application. They must include in their representation their request to speak or subsequently register it with the application case officer. In any event, the request must be made a minimum of two working days before the application is to be presented to the Planning Committee. **[It is the responsibility of the objector or supporter to check whether the application is to be considered by Planning Committee by contacting the Case Officer who will be able to provide details of the likely date on which the application will be heard and the procedure for registering the request to speak]**

Notification to the Applicant/Agent

The Applicant/Agent will be notified once it is known that an objector has registered to speak against an application. They must indicate as soon as possible that they wish to exercise their right of reply and in any event no later than 12 pm the day before Committee.

Procedure at the Planning Committee Meeting

Meetings of the Planning Committee will normally be held every third week on a Tuesday at 2.00 p.m. in Port Talbot Civic Centre. Dates, times and location for Committee meetings can be found on the Council's website. The Schedule of meetings for the Municipal year is at <http://www.npt.gov.uk/Default.aspx?page=750> and Notice of meetings is at <http://www.npt.gov.uk/Default.aspx?page=748>

Persons registered to speak should arrive no later than **fifteen minutes** before the meeting starts. A clerk will advise on seating arrangements and answer any queries. Items where people have registered to speak, will normally be taken first on the agenda and will strictly follow the procedure set out below:

- The item will be introduced by the Presenting Officer who will give a formal presentation of the item, concluding with a formal recommendation;
- The Chairperson will then invite, in turn, the Objector and/or Supporter to speak for a maximum of five minutes each;
- The Chairperson will invite the Applicant/Agent to address Committee in response to the objector for a maximum of five minutes;
- Time limits will be strictly adhered to;
- Response by Officers if necessary to the points raised;
- Consideration and discussion by Members before reaching a decision;
- The Objector/Supporter or Applicant/Agent may not take part in the Members consideration of the application and may not ask questions;
- Should the Objector registered to speak fail to attend and/or speak, the Applicant/Agent will not be allowed to speak;
- Should the Objector or Supporter registered to speak arrive after the fifteen minute cut off time, their opportunity to speak will be lost;
- In the event of an application being deferred for the Planning Committee to visit the site, the objector and/or supporter will be allowed the opportunity to speak when the item is re-presented to Committee following the site visit. The Applicant/Agent will also be allowed the opportunity to speak in response to the objection at that deferred meeting.
- Determination of an application will not be deferred on the basis that a registered speaker cannot attend the Committee meeting. If a speaker is unable to attend the Committee meeting, he/she may

nominate somebody to speak in their place (a reserve). Where a reserve is not nominated to speak, the opportunity to speak will pass to the second person to have registered a request to speak. If there is no alternative Objector, the applicant/agent will not be permitted to exercise their right of reply;

- Where an Applicant/Agent is unavailable on the date of the relevant Committee meeting, the application will not be deferred to a future Committee meeting. The Objector and/or Supporter will retain their opportunity to speak.
- If an Objector and/or Supporter wishes to speak on more than one application being presented at any Committee meeting, a request to speak must be made for each application. Each application will be reported and debated separately, and the above procedure will apply. The Objector and/or Supporter will be allowed to speak for five minutes on each application. Where an Objector is speaking, the applicant/agent will be allowed a five minute right of reply for each application.

Content of the Speeches

Comments by the Objector, Supporter or Applicant/Agent should be limited to planning issues relevant only to the application. These include:

- Relevant national and local planning policies and guidance;
- Appearance and character of the development, layout, design and density;
- Traffic generation, highway safety and parking/servicing;
- Overshadowing, overlooking, noise disturbance, odours, dust, privacy or other affect on amenity;
- Flood risk;
- Impact on trees, wildlife, listed buildings and conservation areas.

Speakers must avoid referring to matters outside the remit of the Planning Committee, such as:

- Boundary disputes, covenants and other property rights;
- Personal remarks [e.g Applicant's motives or actions to date];
- Loss of views or devaluation of property;
- Moral issues;
- Trade objections from potential competitors

The use of visual aids will not be permitted.