

Planning Committee

(Informal Meeting)



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Monday, 27 September 2021 at 1.00 pm
Council Chamber - Council Offices, St. Peter's Hill,
Grantham. NG31 6PZ

Committee Members: Councillor Helen Crawford (Chairman)
Councillor Mrs Judy Smith (Vice-Chairman)

Councillor David Bellamy
Councillor Harrish Bisnauthsing
Councillor Phil Dilks
Councillor Mrs Rosemary Kaberry-Brown
Councillor Penny Milnes
Councillor Charmaine Morgan
Councillor Robert Reid, Cabinet Member for Housing and Property
Councillor Penny Robins
Councillor Ian Selby
Councillor Jacky Smith
Vacancy

Agenda

1. Register of attendance and apologies for absence
2. Consultation on suggested amendments to Planning Protocols (Pages 3 - 38)

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**SOUTH
KESTEVEN
DISTRICT
COUNCIL**



Planning Committee

27 September 2021

Report of: Councillor Nick Robins
Cabinet Member for Planning and
Planning Policy

Consultation on suggested Amendments to Planning Protocols

The purpose of this report is to consult the Planning Committee in relation to the suggested constitutional amendments to planning protocols.

Report Author

William Tse, Project Lead



01476 406376



w.tse@southkesteven.gov.uk

Corporate Priority:	Decision type:	Wards:
Administrative	Administrative	All Wards

Reviewed by:	Emma Whittaker, Assistant Director of Planning	16 September 2021
Approved by:	Nicola M ^c Coy-Brown, Director of Growth and Culture	16 September 2021
Signed off by:	Nick Robins, Cabinet Member for Planning and Planning Policy	17 September 2021

Recommendation to the decision makers

It is recommended that the Planning Committee:

1. Notes the content of the Planning Review following a series of workshop engagements on the subject of the external report.
2. Provide feedback during the meeting to the Cabinet Member on the proposed amendments in relation to protocols and processes and the constitution.

- 3. Notes that this report and the associated feedback will be presented to Constitution Committee in October, with a view to a further report being considered by Constitution Committee and Council in November.**

1 The Background to the Report

- 1.1 This report serves two purposes; in noting the initial planning review undertaken with the Development Management (DM) service and secondly, consults with Planning Committee on the proposed amendments to the protocols and processes associated with the operation of the Committee. These items to have an impact on the wider Constitution.
- 1.2 It is good practice to have an independent external review of the Service which can critically assess the DM function and make recommendations for improvement. To facilitate this the Council chose to commission an external specialist, Cratus Communications to undertake a review of the Planning Service, who developed recommendations associated with:
- Embedding good practice in the operational (officer) delivery of the service
 - Highlighting opportunities to invest in technology and communication to help improve the service.
 - Identifying areas where change to the protocols and functioning of the Planning Committee are likely to be beneficial.
- 1.3 The Planning review recognises the importance of planning as a critical component in supporting economic growth and unlocking future prosperity for local communities. This aligns with the growth priority within the Corporate Plan (2020-2023) along with providing new developments which are sustainable, high quality and of good design. The DM Service is one of the Council's most public facing services provided by the Council in it's role as the Local Planning Authority.
- 1.4 The review, which took place in summer 2020 included a process of interviews, feedback sessions, and 1-2-1 discussions with officers and members. This provided tailored feedback on items which the Planning Service could improve upon at South Kesteven District Council. There have been a number of engagements with Councillors and Officers relating to the initial report. This was formally presented to Governance and Audit, alongside and implementation plan in July 2021.
- 1.5 The report outlined a number of improvements to the officer led elements of the service, which included resourcing, training and modernisation of practice. These items are underway and, in most cases complete, or very close to completion – which has led to noticeable improvements in the service. The operational matters have been progressed under delegated power for officers.
- 1.6 The initial review also highlighted a number of ways in which operation of the Planning Committee could be improved, to optimise the transparency & consistency of decisions and making it easier for members of the public to engage in the process. To that end a further piece of work was commissioned from Cratus Communications, particularly utilising Steve Quartermain (former Chief Planner for the Ministry of Housing, Communities and Local Government) to develop suggested revisions to the protocols and processes. These suggestions are attached in Annex 1 and reflect best practice across local government with the contextual knowledge of South Kesteven planning processes.
- 1.7 The protocol document in Annex 1 engages with:
- Presentations to Planning Committee (core applications and enforcement matters);
 - A robust set of protocols for Committee Members and Officers;

- The provision of site visits for Members including a review of implemented decisions;
 - Pre-application processes and briefings with committee members on major applications.
- 1.8 The document would require revisions to the Council's Constitution, and this has been examined with the Deputy Chief Executive and the Head of Democratic Services and Deputy Monitoring Officer to ensure that the new protocols are able to be incorporated without significant impediment. For ease, Annex 2 provides a detailed breakdown of paragraphs for review, the core document mirrors Annex 1.
- 1.9 Although the Planning Committee is not the formal decision-making body to the proposed changes within this document, the views of the Committee are important. It should be noted that informal engagement with the Planning Committee has previously taken place in prior sessions. The purpose of this report is to consult with the Committee on its views with regards to proposed changes.
- 1.10 The Committee is invited to provide feedback during the meeting on the suggested protocols, prior to further reports being presented to the Constitution Committee and, ultimately Full Council, in October and November 2021.
- 1.11 It is noted that the Council's Constitution is currently undergoing a review and the matters pertaining to the Development Management protocols will be taken forward separately.

2 Consultation and Feedback Received, Including Overview and Scrutiny

- 2.1 There have been a series of informal engagements with Members and Officers on the initial report, which were detailed in the report to Governance and Audit Committee in July 2021. The subject of this report is the proposed amendments to the protocols and practices of the Planning Committee. The informal engagements with Councillors on this subject are as detailed.
- 2.2 Proposals in relation to the planning review included a refinement to the protocols to bring the Committee in line with best practice across the public sector. The drafted protocols were produced collaboratively with the current / former Cabinet Member responsible for Planning and the Chair / Vice Chair of the Planning Committee to ensure that they reflected and understood practice in South Kesteven.
- 2.3 A series of informal meetings were held with Councillors to provide engagement with the protocols, clarity and refinement prior to the item being formally proposed to any Committee.
- The engagement included an extended informal session with the Planning Committee on the 26th May. The session focused on how the protocols would work in practice and enable the smoother operation of Planning Committee and practical examples of how this would function in practice.
 - Two informal sessions took place on 20 July, one with substitute Members of Planning Committee (and those Committee Members who were unable to attend on 26th May).
 - Secondly, a virtual All-member briefing which explored the draft protocols and how they seek to protect the Council, providing greater points of stability for members and officers throughout the period of determination.

- Each of these sessions were facilitated and a thorough question & answer session was provided.

2.4 In concluding the informal briefings with members, there have been minor amendments to the original protocols.

3 Available Options Considered

3.1 Do Nothing – note the report, however do not request further actions.

4 Preferred Option

4.1 The preferred option is to note the report and engage with the consultation of the protocols and to examine these in detail providing comments and routes of progression.

5 Reasons for the Recommendation (s)

5.1 The preferred option provides Planning Committee opportunity to engage with the protocols, examine the appropriate items to be progressed and support an important part of the Constitution considering the wider Constitution review being undertaken.

5.2 The Council will be appropriately engaging and developing an integral committee. Improvements will provide clarity in processes, assist the decision-making process and provide greater alignment between Committee Members and Officers.

6 Next Steps – Communication and Implementation of the Decision

6.1 To take forward recommendations and comments made by the Planning Committee.

6.2 Refine the protocols and provide a further report for the Constitution Committee on the 11 October 2021. The report for the Constitution Committee will be concerned with providing alignment with the current Constitution.

6.3 A secondary report will be taken to Constitution Committee on the 8th November which details the accepted changes with an intention to present the matter to Full Council.

6.4 This matter is expected to attend the 25th November Full Council.

7 Financial Implications

7.1 There will be no direct financial implications arising from the implementation of the stated protocols as the matter relates to procedural matters.

Financial Implications reviewed by: Richard Wyles, Assistant Director of Finance and s151 Officer

8 Legal and Governance Implications

8.1 External, independent, reviews are a valuable way of assessing the Council's current policies, protocols and governance which can contribute to the sharing and implementation of good practice and improve the way in which services are delivered.

8.2 There are no detrimental legal and governance implications to specifically highlight as a result of the recommendations proposed as part of the review.

Legal Implications reviewed by: Graham Watts, Head of Democratic Services and Deputy Monitoring Officer

9 Equality and Safeguarding Implications

- 9.1 The Planning review has identified improvements to support the decision making, by officers and members. These impacts are not anticipated to have any direct impacts on equality or safeguarding.
- 9.2 As this report is part of consultation, an equalities impact assessment is not required. However, the equalities impact assessment is being examined and this will form part of the report at the forward constitution committee.

10 Risk and Mitigation

- 10.1 The review seeks to safeguard the Council on various aspects within the field of Planning. The determination of applications is heavily governed and can be scrutinised via various legal perspectives. Having robust internal protocols supports the efficient running of the authority and ensures the committee manage any undue risks associated with the determination of planning applications.
- 10.2 The Council is actively working to mitigate any interference in the determination process ensuring Members and Officers have due regard to external risks.
- 10.3 The Council aligns with best practice. The Planning service is managed efficiently and reduces the risk of challenges or appeals. Over time, the Council is able to retain resources which would otherwise be required to provide representations at appeals.
- 10.4 Reputationally, the Council maintains clarity and transparency in planning matters underpinned by stable constitutional foundations which govern the service.

11 Community Safety Implications

- 11.1 There are no direct community safety implications resulting from this report.

12 How will the recommendations support South Kesteven District Council's declaration of a climate emergency?

- 12.1 There is a suggestion within the protocols that site visits will be made collectively which should reduce the impact on vehicular travel to the destination of the site visit.
- 12.2 This will reduce emissions and additional travel where possible. However, due to the current pandemic, a common sense application of this matter will be applied.

13 Other Implications (where significant)

- 13.1 None identified.

14 Background Papers

- 14.1 Governance and Audit Committee 30th November 2020: Planning Service External Review:
<http://moderngov.southkesteven.gov.uk/documents/s28333/Planning%20Service%20Review.pdf>
- 14.2 Governance and Audit Committee 21st July 2021: Planning Service Review: Progress Report:
<http://moderngov.southkesteven.gov.uk/documents/s30479/Planning%20Service%20Review%20-%20Progress%20Report.pdf>

15 Appendices

15.1 Annex 1 – Development Management Protocols (Proposed)

15.2 Annex 2 - Development Management Protocols (Paraphrased protocols)

Report Timeline:	Final Decision date	N/A
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South Kesteven District Council

Development Management

Scheme of Delegation & Protocols

Under the Council's Scheme of Delegation many operational and administrative matters are delegated to Officers. These Protocols set out how the Officers will exercise these powers to ensure Members have adequate opportunity to comment on and be involved in the decision-making process.

Development Management Protocols

Planning and Related Applications

Listed below are the circumstances where any planning or related application would be presented to the Planning Committee for decision. The Assistant Director of Planning (ADP), or other duly authorised officer (under the scheme of delegation), will determine all other planning and related applications (see Annex C).

A Member of the Council may request, in writing, that an application be presented to the Planning Committee. Such a request will be made on the forms provided within 21 days of publication of the application on the weekly list giving valid material planning reason(s) for the request. The request must be made by the ward member or adjoining ward in which the application is lodged.

Reference can be made to the Council's Monitoring Officer should clarification be necessary.

Matters to be presented to Planning Committee:-

- i. Proposals which represent a material Departure or significantly contrary to the objectives of an approved or statutory Development Plan, and which are recommended for approval.
- ii. Proposals which in the opinion of the duly authorised officer, are contrary to the adopted Statutory Development Plan, standards or guidance when taken as a whole, and which are recommended for approval.
- iii. Proposals which are controversial or likely to be of significant public interest or have impact on the Corporate Priorities (i.e. the environment) in the opinion of the ADP.
- iv. Proposals submitted by or on behalf of the Council for its own developments, or on Council owned land, for Major Development¹ or in relation to all other applications where objections have been received.
- v. Proposals submitted by (including where acting as an agent) or on behalf of a Member of the Council (or his/her spouse or partner or immediate family) or where a District Councillor lives in the adjoining property, a property opposite the application site or a property either side.

¹ Major Developments are those defined by the Town and County Planning (Development Management Procedure)(England) Order 2015 or by any such other Order or legislation subsequently amending the statutory definition of Major Developments

- vi. Proposals submitted by or on behalf of a member of staff (or his/her spouse or partner or immediate family) or where a member of staff lives in the adjoining property, a property opposite the application site or a property either side.

Enforcement

Listed below are the circumstances where enforcement matters will be presented to the Planning Committee. All other matters will be dealt with by the ADP, or other duly authorised officer.

- i. Where the case involves a Member of the Council (or an immediate relative) or any employee of the Council (or an immediate relative).
- ii. Where there is a contravention of planning control involving the Council's own development that is unresolved through the planning system.
- iii. Issues of significant public interest.
- iv. An enforcement report will be taken to Planning Committee at regular intervals

Protocols for Members and Officers Dealing with Planning Matters

General Conduct

The protocols for conduct recognises the different and complementary roles of Members and Officers in offering a public planning service:

- Officers are responsible to the Council for providing advice, reports, recommendations and some decisions under the Council's Scheme of Delegation.
- Members are responsible for determining applications, however, may delegate formal decision making to Officers within a Scheme of Delegation.

In the planning context, instructions to Officers can only be given through a Council or Committee decision. Members can write or speak to Officers to set out their views to ensure issues they identify are addressed in reports, provided they are material planning matters.

Members should consider in any circumstances whether the Local Code of Conduct applies.

All Members and Officers involved in the planning process should not favour any individuals, groups, firms or localities.

Although they may be influenced by the opinion of others, Members alone have the responsibility to decide what view to take in the interests of the whole District having heard all the available information and evidence at Committee.

All Members and Officers involved with the Planning Committee must take part in the annual training offered by the Council.

Gifts and Hospitality

The Code of Conduct for Members and Employees states a presumption against any gift or hospitality being accepted. Offers of gifts and hospitality should also be recorded.

If receipt is unavoidable, or even a token, it should always be recorded.

Declaration and Registration of Interests

It is the responsibility of Members to notify any changes to their registerable interests as they occur. All Members will be reminded about this at 12 monthly intervals. This will be a standard item where members are required to present declarations at the beginning of each meeting.

The protocols outline declarable interests. For non-pecuniary interests, a member may still speak and vote. Exemptions for non-pecuniary interests are provided for interest which arise when:

- Membership of a public body
- Appointment by the Council as a representative on an outside public body
- As a representative on an outside public body where the appointment is not by the Council, a member is allowed to speak and vote, unless it concerns the finances or property of the body
- Being a Member or supporter of a body, however not in a capacity relating to the managing company body.

Members should inform the Committee of any significant contact with interested parties to a development where this does not constitute a declarable interest and is significantly different from the general contact which other Members of the Committee have had.

Development by Council Employees

Councillors or employees submitting their own applications, (or those of immediate relatives) or are affected by an application, should not take part in its processing.

A councillor or employee should identify such applications at the point of receipt by the Council, including when this is through an agent, and the Monitoring Officer should be informed.

All such proposals should be determined by reference to the Planning Committee and the report contain confirmation from the Monitoring Officer that it has been processed normally. Where the application is from the Monitoring Officer, this confirmation will be provided by the Deputy Monitoring Officer.

When a member or employee application is under consideration they will be dealt with and regarded as no different to any other applicant.

Development by the Council

Developments by the Council will be treated in the same way as private development.

Chairpersons of sponsoring Committees and lead officers for Council developments should consider withdrawing from the Planning Committee during consideration of such items.

Lobbying

Where Members of the Committee may be lobbied in their representational role - and whether judgements are formed in the passage of an application through the system - they

should not express opinion on the development which indicates they have made up their mind until all the available arguments and evidence are available at Committee.

Advice to the public should be restricted to procedural matters, including making the relevant Officer aware so that material opinions can be reflected in the report.

Members will be able to speak on behalf of a body of opinion, however the Committee should be made aware as to such opinion as distinct from personal views.

There should be no party-political grouping on how to vote on applications prior to a Planning Committee Meeting, or similar voting because an application is moved by a member of the same party.

Members should not lobby or trade with other Committee Members for a particular outcome.

Whilst a Member can speak on behalf of a body of opinion, they should not personally be involved in organising support for or against that opinion.

Members not serving on the Planning Committee may speak to the Committee in accordance with Standing Orders, however, should not be deferred to by the Committee. The Chair will decide when non-Committee Members may speak.

A Parish or Town Council has the right to be consulted and should not automatically be deferred to in coming to a decision. Rather their views, insofar as they are material planning considerations, should be taken account of with other available information and evidence.

Discussions pre-application and during passage through the Planning System

In any discussions it should be made clear that they will not bind the Council to a particular decision. It is acceptable for an Officer to express an opinion on the application prior to Committee, however this must not be stated in a manner which implies this is a decision of the Council.

Through office practice a file note is made of all contacts and meetings relating to an application. In contentious cases a follow-up letter will confirm the contact and outcome.

Officers' advice will be impartial.

Reports to Committee

Reports to Committee will contain details of:

- The proposal and the site
- Any relevant planning history
- An exposition of the Development Plan and other material considerations
- Objections and views from consultation
- The Planning Officers' observations and advice
- A recommendation to grant, refuse or defer with reasons

Members should determine applications in accordance with advice given, including verbal updates to reports, unless they have good planning reasons to the contrary and in the knowledge of all the available information and evidence.

Where members wish to determine an application contrary to the recommendation they should indicate the material reason(s) for doing so at the meeting and these will be detailed in the minutes to the Meeting.

Minutes will relate to the planning reasons for the decision specifically whether:

- It is in accordance with development plan policies, or
- Other material considerations indicate otherwise (and what they are)
- In the case of an approval, the relevant matters to be addressed by planning conditions

If the Committee is minded to make a decision contrary to the recommendation, the relevant officer (including Legal) will be given the opportunity to outline the implications for the Committee of such a decision.

If the Committee wish to add or amend conditions, an Officer will be invited to draft such a condition. A detailed minute of the reasons for the Committee's action should be made.

Appeals against decisions contrary to Officer's Recommendations

Where an appeal to the Secretary of State is subsequently lodged against a decision made contrary to the Officer's recommendations, Planning Officers (and other Officers as appropriate) will normally act as professional witnesses to present the Council's case at public inquiries and local hearings. However, where this would prejudice the outcome, the ADP may ask Members to conduct the appeal². In this instance the Planning Committee will need to be prepared to identify a Councillor(s) to support the case at a public inquiry or local hearing. This would normally be the Councillors who proposed and seconded the reasons for the refusal. The ADP and the planning team will support the Members in the preparation of the case as appropriate.

Site Visits

Selection of sites for visits prior to decision will follow the criteria in Annex 'A'.

Site visits will follow the procedures in Annex 'B'.

Any point of explanation or clarification will be by reference to the accompanying officers only.

Members will not make private site visits, they must avoid contact with the applicants/objectors and maintain probity during the process of determination.

² In public inquiries Officers can only give evidence based upon their professional beliefs. The Royal Town Planning Institute (RTPI) Code of Conduct does not allow its members to make or subscribe to any statements or reports that are contrary to their own bona fide professional opinions.

Members will decline private site visits at the request of a planning committee unless at a committee site visit where an officer of the Council is present.

Review

Annually, the Committee will visit a sample of implemented permissions to assess the quality of those decisions. These will take place at 6 monthly intervals.

The outcome of appeals will be reviewed by Planning Committee at 6 monthly intervals to outline feedback and lessons learned.

Planning Agreements

Where a planning agreement (Section 106 Agreement) is to be part of a planning application, the details will be included in the report to Committee.

A report will be presented to the Committee at 6 monthly intervals outlining Section 106 matters.

Annex 'A' - Site Visit Criteria

1. The application under consideration raises specific issues in relation to matters such as scale, design, location, access or setting which can only be fully understood from the site itself.
2. The application or previous development raises an important point of planning principle which has wider implications beyond the site itself and as a result would lead to the establishment of an approach which would be applied to other applications.
3. The application involves judgements about the applicability of approved or developing policies of the Council, particularly where those policies could be balanced against other material planning considerations which may have a greater weight.
4. The application has attracted significant public interest and a visit would provide an opportunity for the Committee to demonstrate that the application has received a full and comprehensive evaluation prior to its determination.
5. There should be a majority of Members insufficiently familiar with the site to enable a decision to be made at the meeting.
6. Site visits will be selected following advice from the relevant case officer in consultation with the Chair or Vice Chair of Planning Committee. Additional visits may be included prior to the consideration of a Committee report when a Member or Officer considers that criteria Nos: 1-4 above apply and an early visit would be in the interests of the efficiency of the development management service. Ward members will be able to request a site visit. Such additional site visits will be agreed for inclusion in consultation with the Chair or Vice-Chair of the Planning Committee.

Annex 'B' - Procedure for Site Visits

The purpose of a site visit is set out in the criteria in Annex 'A'.

It is not an opportunity for the applicant or others to address the Committee or make representations which would not have been permitted at a meeting of Planning Committee, nor is it appropriate for Members to discuss the merits of the application.

The only persons who should be present at a site visit are:

- Members of the Planning Committee
- Relevant Officers

Procedure at site visits:

1. On arrival, the Chair will call the Members of the Planning Committee present to order.
2. The Chair will ask the Planning Officer to outline the proposal to Members, drawing their attention to the relevant points regarding objections/observations received.
3. The Chair will then ask any other officer present to address the Members.
4. Where an applicant or applicant agent is required to be present to provide access to the site, once access has been secured, he or she shall be asked to leave and shall not be present for the duration of the site visit by members.
5. Members will then be invited to ask any questions or seek clarification of facts from the Officers present. Any matters not to hand will be reported at the Committee meeting. Discussion on the merits of the application will not be permitted.
6. The applicant and others present will not be allowed to speak, unless he or she is specifically asked by an Officer or the Chair to point out particular factual matters on site or is invited to draw the Members' attention to particular factual matters relevant to the site of the planning application.
7. The Chair will close the site visit and Members will promptly leave the site.
8. Whilst conducting site visits Members will have due regard to the health and safety of themselves and others and will follow appropriate safety instructions on site, including any guidance on parking and access. Appropriate safety wear will be worn.

Annex 'C' – Scheme of Delegation

Assistant Director of Planning

Proper officer functions

The Assistant Director of Planning is the proper officer for the following functions:

- Ordnance survey matters

Development management

The Assistant Director of Planning may exercise and authorise in writing other officers appropriately qualified and trained to exercise the following powers under the Town and Country Planning Acts and other relevant legislation:

- All decisions, responses or determinations arising in relation to applications for planning permission, Listed Building Consent, Advertisement Consent, Conservation Area Consent, Certificates of Lawfulness, Variation of Conditions applications (Section 73 Applications)
- Approval of reserved matters
- Prior approvals, consents and consultations submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and associated legislation
- To respond to consultations for the installation of overhead electricity cables under the Electricity Acts
- To determine applications for the approval of details pursuant to conditions on planning permissions, prior approval, listed building consent, conservation area consent, hazardous substances consent or advertisement consent.
- To make Tree Preservation Orders and to determine applications made under the Order.
- To authorise the service of Building Preservation Notices
- To settle claims of awards of costs awarded against the Council following successful appeals, by an applicant, against a Council planning decision.

Except in the following circumstances:

- Proposals which represent a material Departure or significantly contrary to the objectives of an approved or statutory Development Plan, and which are recommended for approval.
- Proposals which in the opinion of the duly authorised officer, are contrary to the adopted Statutory Development Plan, standards or guidance when taken as a whole, and which are recommended for approval.
- Proposals which are controversial or likely to be of significant public interest or have impact on the Corporate Priorities (i.e. the environment) in the opinion of the ADP.
- Proposals submitted by or on behalf of the Council for its own developments, or on Council owned land, for Major Development or in relation to all other applications where objections have been received.
- Proposals submitted by (including where acting as an agent) or on behalf of a Member of the Council (or his/her spouse or partner or immediate family) or where a District Councillor lives in the adjoining property, a property opposite the application site or a property either side.
- Proposals submitted by or on behalf of a member of staff (or his/her spouse or partner or immediate family) or where a member of staff lives in the adjoining property, a property opposite the application site or a property either side.

All requests by Councillors for the consideration of items by the Development Management Committee must:

- Be submitted on the appropriate pro-forma within 21 days of the circulation of details of the application on the weekly list
- The request must be made by the ward member or adjoining ward in which the application is lodged.
- Include a statement outlining material planning reasons why the proposal needs to be considered by Committee
- Include a list of related Development Plan and national planning policies

All requests will be acknowledged in writing and the reasons for referral included in the officer report to the Development Management Committee. When, in the opinion of the Assistant Director of Planning, the reasons for the request do not constitute material planning considerations, the Assistant Director of Planning in consultation with the Chairman and the Vice Chairman will be able to decline the request.

- Any application, consultation or like matter where the authorised officer considers a decision should be made by the Development Management Committee
- Any application submitted by or on behalf of a Councillor of the authority (or their spouse or partner) or by or on behalf of a member of the Council's Senior Management Team, or an employee within the Development Management or Planning Policy functions of the Council
- Any application submitted by or on behalf of the Council for its own developments, except for the approval of routine minor developments to which no objection has been received

Where there are statutory time limits for making decisions or taking action where non-determination within a set period automatically gives consent (e.g. agricultural buildings, demolitions and telecommunications determinations and notifications of works to trees in a conservation area), the Assistant Director of Planning or other appropriately qualified and trained officers authorised by them in writing, may determine the applications. The authorised officer will consider any objections received and, at their discretion, efforts will be made to resolve the objection before the expiry period. The existence of an objection will not alter the officer's authority to make a decision in these instances.

The Assistant Director of Planning and other appropriately trained and qualified officers authorised by them in writing, may also exercise the following functions:

- Accepting Material minor amendments (Section 73 applications) and/or non-material minor amendments (Section 96a Applications) to approved plans.
- To adopt screening and scoping opinions under the Environmental Impact Assessment Regulations.
- To carry out and adopting Appropriate Assessment under the Habitats Regulations
- To make non-material additions, deletions, or amendments to the conditions to be attached to the grant of planning permission, listed building consent, conservation area consent, hazardous substances consent or advertisement consent, authorised by the Planning Committee or Council.
- To respond to notifications for proposed works to trees in Conservation Areas.
- Issuing hedgerow retention notices and general discharge of duties under the Hedgerow Regulations 1997.
- To determine applications relating to the High Hedge Legislation.

- Authorising powers of entry in respect of complaints and appeals under antisocial behaviour legislation.
- Entering into a Section 106 Agreement on a delegated planning application approval where no financial contributions are required.
- Entering into planning performance agreements on behalf of the Council as the Local Planning Authority.
- Entering premises for statutory purposes.
- To determine the reasons for which planning permission, listed building consent, conservation area consent, hazardous substances consent, or advertisement consent, would have been refused where this is relevant to appeals against the non-determination of applications.
- On a without prejudice basis in relation to appeals in the event that the Secretary of State or the appointed Inspector is minded to grant permission;
 - To suggest appropriate conditions to be imposed on planning permission, listed building consent, conservation area consent, hazardous substances consent or advertisement consent; and
 - To approve/make comments on the terms of Section 106 Agreements or Unilateral Undertakings

Development management: enforcement

The Assistant Director of Planning is authorised to carry out, and authorise in writing other officers with necessary training and qualifications, the following functions:

- Administer cautions in respect of breaches of advertisement control and in order cases where, following authorisation, court proceedings are considered appropriate
- To make determinations that it is not expedient to take enforcement action.
- To remove or obliterate unauthorised placards or posters or display structures under the Town and Country Planning Act
- To serve Requisitions for Information requiring information as to interests in land or, if related to a planning contravention notice, activities carried out on the land
- To serve Planning Contravention Notices on owners and occupiers of land where it appears that a breach of planning control has taken place
- To serve the following notices following consultation with the Assistant Director for Legal and Democratic:
 - Enforcement notice
 - Breach of condition notice
 - Section 215 notice under the Town and Country Planning Act
 - Listed building enforcement notice
 - Hazardous substance Enforcement notice
 - Discontinuance Notices under the Control of Advertisement Regulations
 - Stop notice
 - Temporary stop notice
- To accept or reject as felt fit such offers to remedy a breach of control as are made under the Town and Country Planning Act 1990
- To authorise the institution of legal proceedings in respect of any matter within the terms of reference of the Planning Committee and following consultation with Legal Services.
- To authorise the institution of legal proceedings for failure to respond to, or to give satisfactory information required by Requisitions for Information, or Planning Contravention Notices.

Street naming

The Assistant Director of Planning and other officers appropriately qualified, trained and authorised by them in writing, have authority to determine uncontested street naming applications.

Planning Policy

Following consultation with the relevant Cabinet Member and the local Ward Councillor(s), the Assistant Director of Planning is authorised to make decisions on the following:

- Applications to designate a Neighbourhood Forum
- To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order
- The validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order
- Appointing a person to carry out the examination of a Neighbourhood Development Plan or Neighbourhood Development Order
- Decisions in respect of action to be taken in response to recommendations included within the Examiner's Report and whether to modify the Plan or Referendum Area prior to submitting it for referendum.

The Assistant Director of Planning has delegated authority to determine applications for grant aid in relation to listed buildings and conservation areas with the following **exceptions**:

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- Applications for supplementary grant which would commit the district council to further expenditure in excess of £500
- Applications where an applicant has requested reconsideration of a decision of the Assistant Director for Legal and Democratic.
- After consultation with the appropriate Portfolio Holder, to respond to policy and other planning documents relevant to the Council, prepared by other bodies.

Recommendations

15. Create a clearly defined pre-application process which distinguishes between strategic and minor application and between corporate discussions in relation to growth and investment versus technical input from the planning service.

16. The Council should replace the design pad with full briefings for all members of the committee on major applications.

From the outset we have recognised the value of having a meeting to discuss applications drawing together the expertise from a number of specialists. However, there is an advantage in being clearer on the precise roles which officer and members should undertake.

Officers should lead discussions with applicants, acting under the clear policy position set out in the Local Plan.

The Design Pad process at South Kesteven does not make this clear distinction. The process should be clarified to provide a clear understanding which involves Members at the appropriate stage, while avoiding any potential accusation of pre-determination of applications by members.

There is scope to build upon current practices, particularly forward look given to the portfolio holder and chairman, to ensure the Members can be involved where they want to be, leaving technical feedback to the case officer.

There are four levels of advice / feedback that can occur:

1. High level feedback from significant investors / developers who want reassurance that their proposal will have broad support subject to meeting planning policy requirements. (think big invest brings 500 jobs to the district...). Such engagement might well be appropriate at Leader / and or the Chief Executive plus the Strategic Director (as this post can give the planning perspective). No need for written protocol. however general Codes of behaviour apply regarding advice and the advice to be without prejudice to the due process.
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3. The Design Pad: this should deal with both pre-application requests and post submission advice. This is a one stop approach the draws together expertise to best advise application or pre application developers on their proposals. This should be an officials' meeting as the advice given must draw on the policies of the local plan and guidance that Members have already agreed. Relevant officers and officials should hold a pre meet to establish and agree the response to the developer and then the meeting should be held to relay that advice. The case officer should hold overall responsibility for the advice and subsequent recommendation. The meetings should be chaired by a senior officer.
4. Members' Design Pad: Feedback from the officers' discussions with the applicant will be presented to the Chair and Cabinet Member at the regular forward look meetings rebadged as the "Member Design Pad".

5. Finally, there will be cases where it is of benefit to brief members early in the process and either as a result of a decision at the Members Design Pad meeting outlined at 4 above, or if following consultation with the Chair and Portfolio holder. A briefing can be made to the whole committee outlining the facts pertaining to the application. In some cases these can take place before the application has been to either of the Design Pad meetings.

This would be a briefing only and the facts of the proposal would be explained. Members would be able to air any local considerations that officers might need to feedback. These would be open meetings and it would be clear that this is regarding the “issues” which the application might raise and not the merits of the application. Care would need to be taken not to pre-determine the application and training should be given to members on this.

Annex 2 - Development Management Protocols

Item	Statement	Notes
1	Under the Council's Scheme of Delegation many operational and administrative matters are delegated to Officers. These Protocols set out how the Officers will exercise these powers to ensure Members have adequate opportunity to comment on and be involved in the decision-making process.	
Development Management Protocols		
<u>Planning and Related Applications</u>		
2	Listed below are the circumstances where any planning or related application would be presented to the Planning Committee for decision. The Assistant Director of Planning (ADP), or other duly authorised officer (under the scheme of delegation), will determine all other planning and related applications (see Annex C).	
3	A Member of the Council may request, in writing, that an application be presented to the Planning Committee. Such a request will be made on the forms provided within 21 days of publication of the application on the weekly list giving valid material planning reason(s) for the request. The request must be made by the ward member or adjoining ward in which the application is lodged.	
4	Reference can be made to the Council's Monitoring Officer should clarification be necessary.	
Matters to be presented to Planning Committee:-		
5	i. Proposals which represent a material Departure or significantly contrary to the objectives of an approved or statutory Development Plan, and which are recommended for approval.	
6	ii. Proposals which in the opinion of the duly authorised officer, are contrary to the adopted Statutory Development Plan, standards or guidance when taken as a whole, and which are recommended for approval.	
7	iii. Proposals which are controversial or likely to be of significant public interest or have impact on the Corporate Priorities (i.e. the environment) in the opinion of the ADP.	
8	iv. Proposals submitted by or on behalf of the Council for its own developments, or on Council owned land, for Major Development(1) or in relation to all other applications where objections have been received.	
9	v. Proposals submitted by (including where acting as an agent) or on behalf of a Member of the Council (or his/her spouse or partner or immediate family) or where a District Councillor lives in the adjoining property, a property opposite the application site or a property either side.	
10	vi. Proposals submitted by or on behalf of a member of staff (or his/her spouse or partner or immediate family) or where a member of staff lives in the adjoining property, a property opposite the application site or a property either side.	

Reference	<i>(1) Major Developments are those defined by the Town and County Planning (Development Management Procedure)(England) Order 2015 or by any such other Order or legislation subsequently amending the statutory definition of Major Developments</i>	
Enforcement		
11	Listed below are the circumstances where enforcement matters will be presented to the Planning Committee. All other matters will be dealt with by the ADP, or other duly authorised officer.	
12	i. Where the case involves a Member of the Council (or an immediate relative) or any employee of the Council (or an immediate relative).	
13	ii. Where there is a contravention of planning control involving the Council's own development that is unresolved through the planning system.	
14	iii. Issues of significant public interest.	
15	iv. An enforcement report will be taken to Planning Committee at regular intervals	
Protocols for Members and Officers Dealing with Planning Matters		
General Conduct		
16	The protocols for conduct recognises the different but complementary roles of Members and Officers in offering a public planning service: • Officers are responsible to the Council for providing advice, reports, recommendations and some decisions under the Council's Scheme of Delegation.	
17	• Members are responsible for determining applications, however, may delegate formal decision making to Officers within a Scheme of Delegation.	
18	In the planning context, instructions to Officers can only be given through a Council or Committee decision. Members can write or speak to Officers to set out their views to ensure issues they identify are addressed in reports, provided they are material planning matters.	
19	Members should consider in any circumstances whether the Local Code of Conduct applies.	
20	All Members and Officers involved in the planning process should not favour any individuals, groups, firms or localities.	
21	Although they may be influenced by the opinion of others, Members alone have the responsibility to decide what view to take in the interests of the whole District having heard all the available information and evidence at Committee.	
22	All Members and Officers involved with the Planning Committee must take part in the annual training offered by the Council.	
Gifts and Hospitality		
23	The Code of Conduct for Members and Employees states a presumption against any gift or hospitality being accepted. Offers of gifts and hospitality should also be recorded. If receipt is unavoidable, or even a token, it should always be recorded.	

<u>Declaration and Registration of Interests</u>		
24	It is the responsibility of Members to notify any changes to their registerable interests as they occur. All Members will be reminded about this at 12 monthly intervals. This will be a standard item where members will present declarations at the beginning of each meeting.	
25	The protocols outline declarable interests. For non-pecuniary interests, a member may still speak and vote. Exemptions for non-pecuniary interests are provided for interest which arise when: <ul style="list-style-type: none"> • Membership of a public body • Appointment by the Council as a representative on an outside public body • As a representative on an outside public body where the appointment is not by the Council, a member is allowed to speak and vote, unless it concerns the finances or property of the body • Being a Member or supporter of a body, however not in a capacity relating to the managing company body. 	
26	Members should inform the Committee of any significant contact with interested parties to a development where this does not constitute a declarable interest and is significantly different from the general contact which other Members of the Committee have had.	
<u>Development by Council Employees</u>		
27	Councillors or employees submitting their own applications, (or those of immediate relatives) or are affected by an application, should not take part in its processing.	
28	A councillor or employee should identify such applications at the point of receipt by the Council, including when this is through an agent, and the Monitoring Officer should be informed. All such proposals should be determined by reference to the Planning Committee and the report contain confirmation from the Monitoring Officer that it has been processed normally. Where the application is from the Monitoring Officer, this confirmation will be provided by the Deputy Monitoring Officer.	
29	When a member or employee application is under consideration they will be dealt with and regarded as no different to any other applicant.	
<u>Development by the Council</u>		
30	Developments by the Council will be treated in the same way as private development. Chairpersons of sponsoring Committees and lead officers for Council developments should consider withdrawing from the Planning Committee during consideration of such items.	
<u>Lobbying</u>		
31	Where Members of the Committee may be lobbied in their representational role - and whether judgements are formed in the passage of an application through the system - they should not express opinion on the development which indicates they have made up their mind until all the available arguments and evidence are available at Committee.	

32	Advice to the public should be restricted to procedural matters, including making the relevant Officer aware so that material opinions can be reflected in the report.	
33	Members will be able to speak on behalf of a body of opinion, however the Committee should be made aware as to such opinion as distinct from personal views.	
34	There should be no party-political grouping on how to vote on applications prior to a Planning Committee Meeting, or similar voting because an application is moved by a member of the same party.	
35	Members should not lobby or trade with other Committee Members for a particular outcome.	
36	Whilst a Member can speak on behalf of a body of opinion, they should not personally be involved in organising support for or against that opinion.	
37	Members not serving on the Planning Committee may speak to the Committee in accordance with Standing Orders, however, should not be deferred to by the Committee. The Chair will decide when non-Committee Members may speak.	
38	A Parish or Town Council has the right to be consulted and should not automatically be deferred to in coming to a decision. Rather their views, insofar as they are material planning considerations, should be taken account of with other available information and evidence.	
Discussions pre-application and during passage through the Planning System		
39	In any discussions it should be made clear that they will not bind the Council to a particular decision. It is acceptable for an Officer to express an opinion on the application prior to Committee, however this must not be stated in a manner which implies this is a decision of the Council.	
40	Through office practice a file note is made of all contacts and meetings relating to an application. In contentious cases a follow-up letter will confirm the contact and outcome.	
41	Officers' advice will be impartial.	
Reports to Committee		
42	Reports to Committee will contain details of: <ul style="list-style-type: none"> • The proposal and the site • Any relevant planning history • An exposition of the Development Plan and other material considerations • Objections and views from consultation • The Planning Officers' observations and advice • A recommendation to grant, refuse or defer with reasons 	
43	Members should determine applications in accordance with advice given, including verbal updates to reports, unless they have good planning reasons to the contrary and in the knowledge of all the available information and evidence.	
44	Where members wish to determine an application contrary to the recommendation they should indicate the material reason(s) for doing so at the meeting and these will be detailed in the minutes to the Meeting.	

45	Minutes will relate to the planning reasons for the decision specifically whether: <ul style="list-style-type: none"> • It is in accordance with development plan policies, or • Other material considerations indicate otherwise (and what they are) • In the case of an approval, the relevant matters to be addressed by planning conditions 	
46	If the Committee is minded to make a decision contrary to the recommendation, the relevant officer (including Legal) will be given the opportunity to outline the implications for the Committee of such a decision.	
47	If the Committee wish to add or amend conditions, an Officer will be invited to draft such a condition. A detailed minute of the reasons for the Committee's action should be made.	
Appeals against decisions contrary to Officer's Recommendations		
48	Where an appeal to the Secretary of State is subsequently lodged against a decision made contrary to the Officer's recommendations, Planning Officers (and other Officers as appropriate) will normally act as professional witnesses to present the Council's case at public inquiries and local hearings. However, where this would prejudice the outcome, the ADP may ask Members to conduct the appeal (2). In this instance the Planning Committee will need to be prepared to identify a Councillor(s) to support the case at a public inquiry or local hearing. This would normally be the Councillors who proposed and seconded the reasons for the refusal. The ADP and the planning team will support the Members in the preparation of the case as appropriate.	
Reference	<i>(2) In public inquiries Officers can only give evidence based upon their professional beliefs. The Royal Town Planning Institute (RTPI) Code of Conduct does not allow it's members to make or subscribe to any statements or reports that are contrary to their own bona fide professional opinions.</i>	
Site Visits		
49	Selection of sites for visits prior to decision will follow the criteria in Annex 'A'. Site visits will follow the procedures in Annex 'B'.	
50	Any point of explanation or clarification will be by reference to the accompanying officers only.	
51	Members will not make private site visits, they must avoid contact with the applicants/objectors and maintain probity during the process of determination.	
52	Members will decline private site visits at the request of a planning committee unless at a committee site visit where an officer of the Council is present.	
Review		
53	Annually, the Committee will visit a sample of implemented permissions to assess the quality of those decisions. These will take place at 6 monthly intervals.	
54	The outcome of appeals will be reviewed by Planning Committee at 6 monthly intervals to outline feedback and lessons learned.	

Planning Agreements		
55	Where a planning agreement (Section 106 Agreement) is to be part of a planning application, the details will be included in the report to Committee. A report will be presented to the Committee at 6 monthly intervals outlining Section 106 matters.	
Site Visit Criteria – Annex 'A'		
56	1. The application under consideration raises specific issues in relation to matters such as scale, design, location, access or setting which can only be fully understood from the site itself.	
57	2. The application or previous development raises an important point of planning principle which has wider implications beyond the site itself and as a result would lead to the establishment of an approach which would be applied to other applications.	
58	3. The application involves judgements about the applicability of approved or developing policies of the Council, particularly where those policies could be balanced against other material planning considerations which may have a greater weight.	
59	4. The application has attracted significant public interest and a visit would provide an opportunity for the Committee to demonstrate that the application has received a full and comprehensive evaluation prior to its determination.	
60	5. There should be a majority of Members insufficiently familiar with the site to enable a decision to be made at the meeting.	
61	6. Site visits will be selected following advice from the relevant case officer in consultation with the Chair or Vice Chair of Planning Committee. Additional visits may be included prior to the consideration of a Committee report when a Member or Officer considers that criteria Nos: 1-4 above apply and an early visit would be in the interests of the efficiency of the development management service. Ward members will be able to request a site visit. Such additional site visits will be agreed for inclusion in consultation with the Chair or Vice-Chair of the Planning Committee.	
Procedure for Site Visits - Annex 'B'		
Ref	The purpose of a site visit is set out in the criteria in Annex 'A'.	
62	It is not an opportunity for the applicant or others to address the Committee or make representations which would not have been permitted at a meeting of Planning Committee, nor is it appropriate for Members to discuss the merits of the application.	
63	The only persons who should be present at a site visit are: <ul style="list-style-type: none"> • Members of the Planning Committee • Relevant Officers 	

64	<ol style="list-style-type: none"> 1. On arrival, the Chair will call the Members of the Planning Committee present to order. 2. The Chair will ask the Planning Officer to outline the proposal to Members, drawing their attention to the relevant points regarding objections/observations received. 3. The Chair will then ask any other officer present to address the Members. 4. Where an applicant or applicant agent is require to be present to provide access to the site, once access has been secured, he or she shall be asked to leave and shall not be present for the duration of the site visit by members. 5. Members will then be invited to ask any questions or seek clarification of facts from the Officers present. Any matters not to hand will be reported at the Committee meeting. Discussion on the merits of the application will not be permitted. 6. The applicant and others present will not be allowed to speak, unless he or she is specifically asked by an Officer or the Chair to point out particular factual matters on site, or is invited to draw the Members' attention to particular factual matters relevant to the site of the planning application. 7. The Chair will close the site visit and Members will promptly leave the site. 8. Whilst conducting site visits Members will have due regard to the health and safety of themselves and others and will follow appropriate safety instructions on site, including any guidance on parking and access. Appropriate safety wear will be worn. 	
<u>Annex 'C' – Scheme of Delegation</u>		
Assistant Director of Planning		
65	<p>Proper officer functions</p> <p>The Assistant Director of Planning is the proper officer for the following functions:</p> <ul style="list-style-type: none"> • Ordnance survey matters 	

66	<p>The Assistant Director of Planning may exercise and authorise in writing other officers appropriately qualified and trained to exercise the following powers under the Town and Country Planning Acts and other relevant legislation:</p> <ul style="list-style-type: none"> • All decisions, responses or determinations arising in relation to applications for planning permission, Listed Building Consent, Advertisement Consent, Conservation Area Consent, Certificates of Lawfulness, Variation of Conditions applications (Section 73 Applications) • Approval of reserved matters • Prior approvals, consents and consultations submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and associated legislation • To respond to consultations for the installation of overhead electricity cables under the Electricity Acts • To determine applications for the approval of details pursuant to conditions on planning permissions, prior approval, listed building consent, conservation area consent, hazardous substances consent or advertisement consent. • To make Tree Preservation Orders and to determine applications made under the Order. • To authorise the service of Building Preservation Notices • To settle claims of awards of costs awarded against the Council following successful appeals, by an applicant, against a Council planning decision. 	
67	<p>Except in the following circumstances:</p> <ul style="list-style-type: none"> • Proposals which represent a material Departure or significantly contrary to the objectives of an approved or statutory Development Plan, and which are recommended for approval. • Proposals which in the opinion of the duly authorised officer, are contrary to the adopted Statutory Development Plan, standards or guidance when taken as a whole, and which are recommended for approval. • Proposals which are controversial or likely to be of significant public interest or have impact on the Corporate Priorities (i.e. the environment) in the opinion of the ADP. • Proposals submitted by or on behalf of the Council for its own developments, or on Council owned land, for Major Development or in relation to all other applications where objections have been received. • Proposals submitted by (including where acting as an agent) or on behalf of a Member of the Council (or his/her spouse or partner or immediate family) or where a District Councillor lives in the adjoining property, a property opposite the application site or a property either side. • Proposals submitted by or on behalf of a member of staff (or his/her spouse or partner or immediate family) or where a member of staff lives in the adjoining property, a property opposite the application site or a property either side. 	

68	<p>All requests by Councillors for the consideration of items by the Development Management Committee must:</p> <ul style="list-style-type: none"> • Be submitted on the appropriate pro-forma within 21 days of the circulation of details of the application on the weekly list • The request must be made by the ward member or adjoining ward in which the application is lodged. • Include a statement outlining material planning reasons why the proposal needs to be considered by Committee • Include a list of related Development Plan and national planning policies 	
69	<p>All requests will be acknowledged in writing and the reasons for referral included in the officer report to the Development Management Committee. When, in the opinion of the Assistant Director of Planning, the reasons for the request do not constitute material planning considerations, the Assistant Director of Planning in consultation with the Chairman and the Vice Chairman will be able to decline the request.</p>	
70	<ul style="list-style-type: none"> • Any application, consultation or like matter where the authorised officer considers a decision should be made by the Development Management Committee • Any application submitted by or on behalf of a Councillor of the authority (or their spouse or partner) or by or on behalf of a member of the Council's Senior Management Team, or an employee within the Development Management or Planning Policy functions of the Council • Any application submitted by or on behalf of the Council for its own developments, except for the approval of routine minor developments to which no objection has been received 	
71	<p>Where there are statutory time limits for making decisions or taking action where non-determination within a set period automatically gives consent (e.g. agricultural buildings, demolitions and telecommunications determinations and notifications of works to trees in a conservation area), the Assistant Director of Planning or other appropriately qualified and trained officers authorised by them in writing, may determine the applications. The authorised officer will consider any objections received and, at their discretion, efforts will be made to resolve the objection before the expiry period. The existence of an objection will not alter the officer's authority to make a decision in these instances.</p>	

72	<p>The Assistant Director of Planning and other appropriately trained and qualified officers authorised by them in writing, may also exercise the following functions:</p> <ul style="list-style-type: none"> • A Accepting Material minor amendments (Section 73 applications) and/or non-material minor amendments (Section 96a Applications) to approved plans • T To adopt screening and scoping opinions under the Environmental Impact Assessment Regulations • T To carry out and adopting Appropriate Assessment under the Habitats Regulations • T To make non-material additions, deletions, or amendments to the conditions to be attached to the grant of planning permission, listed building consent, conservation area consent, hazardous substances consent or advertisement consent, authorised by the Planning Committee or Council • T To respond to notifications for proposed works to trees in Conservation Areas • E ssuing hedgerow retention notices and general discharge of duties under the Hedgerow Regulations 1997 • T To determine applications relating to the High Hedge Legislation 	
73	<ul style="list-style-type: none"> • A Authorising powers of entry in respect of complaints and appeals under antisocial behaviour legislation • E Entering into a Section 106 Agreement on a delegated planning application approval where no financial contributions are required. • E Entering into planning performance agreements on behalf of the Council as the Local Planning Authority • E Entering premises for statutory purposes • T To determine the reasons for which planning permission, listed building consent, conservation area consent, hazardous substances consent, or advertisement consent, would have been refused where this is relevant to appeals against the non-determination of applications. • D On a without prejudice basis in relation to appeals in the event that the Secretary of State or the appointed Inspector is minded to grant permission; <ul style="list-style-type: none"> -To suggest appropriate conditions to be imposed on planning permission, listed building consent, conservation area consent, hazardous substances consent or advertisement consent; and -To approve/make comments on the terms of Section 106 Agreements or Unilateral Undertakings 	
74	<p>Development management: enforcement</p> <p>The Assistant Director of Planning is authorised to carry out, and authorise in writing other officers with necessary training and qualifications, the following functions:</p>	

75	<ul style="list-style-type: none"> • Administer cautions in respect of breaches of advertisement control and in order cases where, following authorisation, court proceedings are considered appropriate • To make determinations that it is not expedient to take enforcement action. • To remove or obliterate unauthorised placards or posters or display structures under the Town and Country Planning Act • To serve Requisitions for Information requiring information as to interests in land or, if related to a planning contravention notice, activities carried out on the land • To serve Planning Contravention Notices on owners and occupiers of land where it appears that a breach of planning control has taken place • To serve the following notices following consultation with the Assistant Director for Legal and Democratic: <ul style="list-style-type: none"> - Enforcement notice - Breach of condition notice - Section 215 notice under the Town and Country Planning Act - Listed building enforcement notice - Hazardous substance Enforcement notice - Discontinuance Notices under the Control of Advertisement Regulations - Stop notice - Temporary stop notice 	
76	<ul style="list-style-type: none"> • To accept or reject as felt fit such offers to remedy a breach of control as are made under the Town and Country Planning Act 1990 • To authorise the institution of legal proceedings in respect of any matter within the terms of reference of the Planning Committee and following consultation with Legal Services. • To authorise the institution of legal proceedings for failure to respond to, or to give satisfactory information required by Requisitions for Information, or Planning Contravention Notices. 	
77	<p>Street naming</p> <p>The Assistant Director of Planning and other officers appropriately qualified, trained and authorised by them in writing, have authority to determine uncontested street naming applications.</p>	

78	<p>Planning Policy</p> <p>Following consultation with the relevant Cabinet Member and the local Ward Councillor(s), the Assistant Director of Planning is authorised to make decisions on the following:</p> <ul style="list-style-type: none"> • Applications to designate a Neighbourhood Forum • To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order • The validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order • Appointing a person to carry out the examination of a Neighbourhood Development Plan or Neighbourhood Development Order • Decisions in respect of action to be taken in response to recommendations included within the Examiner’s Report and whether to modify the Plan or Referendum Area prior to submitting it for referendum. 	
79	<p>The Assistant Director of Planning has delegated authority to determine applications for grant aid in relation to listed buildings and conservation areas with the following exceptions:</p> <ul style="list-style-type: none"> • New applications which would commit the district council to expenditure in excess of £1,000 • Applications for supplementary grant which would commit the district council to further expenditure in excess of £500 • Applications where an applicant has requested reconsideration of a decision of the Assistant Director for Legal and Democratic. • After consultation with the appropriate Portfolio Holder, to respond to policy and other planning documents relevant to the Council, prepared by other bodies. 	
Recommendations		
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<u>16. The Council should replace the design pad with full briefings for all members of the committee on major applications.</u>		
81	From the outset we have recognised the value of having a meeting to discuss applications drawing together the expertise from a number of specialists. However, there is an advantage in being clearer on the precise roles which officer and members should undertake.	
82	Officers should lead discussions with applicants, acting under the clear policy position set out in the Local Plan.	
83	The Design Pad process at South Kesteven does not make this clear distinction. The process should be clarified to provide a clear understanding which involves Members at the appropriate stage, while avoiding any potential accusation of pre-determination of applications by members.	

84	There is scope to build upon current practices, particularly forward look given to the portfolio holder and chairman, to ensure the Members can be involved where they want to be, leaving technical feedback to the case officer.	
85	There are four levels of advice / feedback that can occur: 1. High level feedback from significant investors / developers who want reassurance that their proposal will have broad support subject to meeting planning policy requirements. (think big invest brings 500 jobs to the district...). Such engagement might well be appropriate at Leader / and or the Chief Executive plus the Strategic Director (as this post can give the planning perspective). No need for written protocol, however general Codes of behaviour apply regarding advice and the advice to be without prejudice to the due process.	
86	2. Low level general day to day enquiries about planning applications where a judgement can be made regarding compliance with Local Plan policy. This can be done by case officers with advice if needed from Senior staff.	
87	3. The Design Pad: this should deal with both pre-application requests and post submission advice. This is a one stop approach that draws together expertise to best advise application or pre application developers on their proposals. This should be an officials' meeting as the advice given must draw on the policies of the local plan and guidance that Members have already agreed. Relevant officers and officials should hold a pre meet to establish and agree the response to the developer and then the meeting should be held to relay that advice. The case officer should hold overall responsibility for the advice and subsequent recommendation. The meetings should be chaired by a senior officer.	
88	4. Members' Design Pad: Feedback from the officers' discussions with the applicant will be presented to the Chair and Cabinet Member at the regular forward look meetings rebadged as the "Member Design Pad". Here member input can be given including, if necessary, an opportunity for a full presentation to all committee members to be arranged. It is important Members are kept aware of potential significant or controversial projects, but they do not need to be involved in every case; a process would establish a protocol on case type to be taken to the forward plan meeting. There could be an opportunity for the members to refer any item to the forward look meeting (see below).	

89	<p>5. Finally, there will be cases where it is of benefit to brief members early in the process and either as a result of a decision at the Members Design Pad meeting outlined at 4 above, or if following consultation with the Chair and Portfolio holder. A briefing can be made to the whole committee outlining the facts pertaining to the application. In some cases these can take place before the application has been to either of the Design Pad meetings.</p> <p>This would be a briefing only and the facts of the proposal would be explained. Members would be able to air any local considerations that officers might need to feedback. These would be open meetings and it would be clear that this is regarding the “issues” which the application might raise and not the merits of the application. Care would need to be taken not to pre-determine the application and training should be given to members on this.</p>	
END		