

Extract from draft minutes

Constitution Committee – 17 October 2022

Proposed amendment to the Planning Procedure Rules and any other amendments to the Council's Constitution

The Democratic Services Manager presented the Cabinet Member for Corporate Governance and Licensing's report on proposed amendments to the Planning Procedure Rules following the motion deferred from the recent Council meeting on an amendment proposed by Councillor Cleaver.

The proposal before the Committee related to the definition of 'relevant Ward Councillor' in respect of those Councillors entitled to speak during consideration of a planning application at the Planning Committee. The Constitution Committee had been asked to re-consider the proposal in the context of the content of the Local Code of Good Practice for the Planning Committee.

The Vice-Chairman of the Planning Committee who was substituting on the Constitution Committee proposed an amendment to the definition of 'relevant Ward Councillor' which read:

"The relevant Ward Councillor is defined as Councillors representing those wards in which a planning application falls or adjacent wards where there could be a material impact".

Examples given for material impact were issues such as noise, odour or traffic management.

The amendment was seconded and it was stated that the amendment was a variation of the amendment that Councillor Cleaver had submitted and this had been discussed with Councillor Cleaver. Discussions had also been held with the Cabinet Member for Planning and Planning Policy about the proposed amendment who had expressed some reservations about the proposal.

A short discussion then followed on how 'material impact' could be subjective depending upon what was being discussed and who made the decision that something had a 'material impact'.

The Assistant Director of Planning offered some technical guidance and stated that there was a long list of what could be classed as material considerations as determined by the courts and general planning good practice. The subjectivity was a concern and who made the decision around that, having the Constitution phrased more simply and perhaps giving that discretion to the Chairman and Vice-Chairman would make it less 'wordy', inconsistency in decision making was a great concern and planning was an area where decisions were challenged regularly.

A further amendment was proposed by the original proposer, and seconded, to change the wording to:

“The relevant Ward Councillor is defined as Councillors representing those wards in which a planning application falls or adjacent wards at the discretion of the Chairman or Vice-Chairman of Planning.

Further discussion followed and one Member referred to the original wording within the Constitution, before the review took place, which allowed for any Councillor to speak on any application and gave examples of adjacent wards where a Councillor would automatically be allowed to speak. He also stated that contiguous would be a better word to use than adjacent.

The Chairman of Planning Committee who was also a member of the Constitution Committee stated that there seemed to be some confusion and misinformation about what was being discussed and what was contained within the Constitution. The Democratic Services Manager stated that Members were discussing the right of Councillors to speak at Planning Committee and the meaning of ‘relevant’.

Following more discussion, it was stated that there seemed to be concern from Members that they would be denied the opportunity or right to speak at a Planning Committee in relation to concerns that would impact local residents.

Currently within the Constitution if they were the Member for the relevant Electoral Ward, they had an absolute right to speak on an application, Section 5.2, Planning Rules of Procedure, all other Members had a discretionary right at the Chairman’s discretion, Paragraph 4.1, Planning Rules of Procedure. If Members wanted to speak on a planning application at Planning Committee, then the Planning Committee should hear those points whether that was under an absolute or discretionary right. Whatever was written in the Constitution needed to be simple.

More discussion followed with further examples of adjacent wards given and who would be notified when an application was submitted. It was proposed that the addition of *“at the discretion of the Chairman and Vice-Chairman”* did not need to be included as this was already within the Constitution.

Following the proposal, the Chairman read out the amendment before the Committee:

“The relevant Ward Councillor is defined as Councillors representing those wards in which a planning application falls or adjacent wards”.

Reference was once again made to using the word contiguous rather than adjacent in the amendment. However, the amendment as read out by the Chairman was seconded and on being put to the vote unanimously **AGREED**.

Recommendation to Council

The Constitution Committee recommends the addition of the following paragraph to the Planning Procedure Rules as contained within Part 4 of the new Constitution:

“The relevant Ward Councillor is defined as Councillors representing those wards in which a planning application falls or adjacent wards”.

Members then discussed an amendment that Councillor Cleaver had raised at the Constitution Committee on 18 July in relation to the call-in process. The Chairman of Planning Committee had asked for the item to come back to the Constitution Committee as it was felt that all the information had not initially been made available to the Committee members.

When the item had been discussed, the Planning Scheme of Delegation had been included in the pack but not the Planning Local Code of Practice. Some of the detail of the call-in process was in the Members Code of Good Practice and was not obvious in the Planning Scheme of Delegation. Member’s attention was drawn to the start of paragraph 6 on page 31 of the agenda pack which stated:

“Where any Councillor considers that an application not in their ward or adjoining their ward should be referred to the Planning Committee for a decision,…….”

This entitled any Member to call-in any application, unfortunately this was not clear in the Planning Scheme of Delegation which was the paper included in the agenda pack.

Discussions had been held with the Assistant Director of Planning and it had been proposed that a second paragraph was inserted after paragraph 1 in the Planning Scheme of Delegation to refer Members to the Planning Code of Good Practice. It was requested that when the item was submitted to Council that the Planning Code of Good Practice and the Planning Scheme of Delegation were both included in the agenda pack. This would enable the Chairman of Planning Committee to make it clear what the process was and that any Councillor could call-in any planning application at the discretion of the Planning Committee Chairman.

The wording to be inserted at 1(a) in the Planning Scheme of Delegation was:

“Any application at the discretion of the Chairman and Vice-Chairman of the Planning Committee in accordance with the Local Code of Good Practice.”

The proposed amendment was seconded and on being put to the vote unanimously **AGREED.**

Recommendation to Council

The Constitution Committee recommends that the following new paragraph be inserted in the Planning Scheme of Delegation at 1(a):

“Any application at the discretion of the Chairman and Vice-Chairman of the Planning Committee in accordance with the Local Code of Good Practice.”

(It was requested that both the Planning Scheme of Delegation and the Local Code of Good Practice be included with the report for Council)