

Proposal to change Planning Call-In procedures

Full Council 3 April 2024

Summary

Lead Member: Councillor Hugo Pound, Housing and Planning

Lead Director: Lee Colyer – Director of Finance, Policy and Development

Head of Service: Carlos Hone – Head of Planning

Report Author: Carlos Hone – Head of Planning

Classification: Public document (non-exempt)

Wards Affected: All

Approval Timetable	Date
Management Board	5 February 2024
Portfolio Holder	22 January 2024
Constitution Review Working Party	28 February 2024
Audit and Governance Committee	12 March 2024
Full Council	3 April 2024

Recommendations

That Full Council approves the amendments to the Planning Committee Call-In procedure in the Constitution as set out at paragraph 3.3 (**Option 2**).

1. Purpose of Report

- 1.1 Procedures setting out officer delegated powers for the determination of planning applications on behalf of the Local Planning Authority are set out in Part 3 of the Council's Constitution (Appendix A). Delegated powers are in place for the determination of all types of applications by Officers other than those which trigger

an automatic referral to Planning Committee, or those 'Called-in' by elected members.

- 1.2 At the Audit and Governance Committee meeting on 28 November 2023, Councillor McMillan proposed changes in relation to the Planning Call-in procedure and the manner in which Outline Planning Applications can be called in namely:-
- (i) The 5 week (35 day) call in period available to members be increased to a minimum of 6 weeks (42 days) to allow for sufficient time should the period fall over a holiday season or elections.
 - (ii) That the Call-in period should cover when an application is revised from an Outline application to a Full application before being determined.
- 1.3 This report sets out how the proposed changes might be incorporated into the constitution through revisions and what the changes might mean for the determination of planning applications.

2. Introduction and Background

- 2.1 Procedures setting out officer delegated powers for the determination of planning applications on behalf of the Local Planning Authority are set out in Part 3 of the Council's Constitution (Appendix A).
- 2.2 Delegated powers are in place for the determination by Officers of all types of application other than those which trigger an automatic referral to Planning Committee. These are summarised as (a) applications recommended for approval for 20 or more dwellings (detailed and outline), or applications for non-residential floor space (new build or conversion) of 2,000 sqm or more.
- 2.3 Other reasons for an application to be considered automatically by Planning Committee are where the application relates to a current member of staff or elected member or relative, or one who was in post within 3 years of making the application; Or a call-in by the Head of Planning Services; Or a significant departure from the Development Plan; Or any application where the Borough Council is the applicant or land owner.
- 2.4 The relevant section also states that members can call an application in to Planning Committee as follows:-

'12.1 those applications where any Member has requested in writing that the application be "called in" to be determined by the Planning Committee, and the "call in" and reasons for the "call in" have been agreed as valid by the Portfolio Holder for Planning and Transportation following discussion with the Head of Planning (or delegated deputy).

12.1.1 The reasons for which an application can be called in must include:

(a) The material planning issue(s) that warrant(s) the application being determined by Committee; and/or

(b) Evidence and the reason(s) of significant local concern that warrant(s) the application being determined by Committee.

12.1.2 The request for the "call-in" must be received in writing addressed to the Head of Planning Services within five weeks (35 days) of the date that the application is originally made valid.'

Furthermore in Part 4 of the Constitution 'Planning Committee Procedure Rules' part 5 states:-

'... Members should exercise discretion in using this power and should only call in applications where there is a material planning issue which warrants consideration by the Planning Committee, or where there is evidence of local concern that warrants consideration by the Planning Committee....'

- 2.5 In general, the process works well and there is a level of call-in undertaken as part of the Councils Planning Committee already in place. For example, in 2023 of the 42 applications presented to planning committee 13 (31%) were because of the Call-in procedure available to members. If there are issues with applications being called-in this may be a lack of familiarity with the process, or that residents are making late requests of their ward members that are beyond the five week cut off timeframe.
- 2.6 The Call-in process is there to enable elected borough councillors in raising relevant applications with Planning Committee where it is felt necessary and in accordance with the articles of the constitution.
- 2.7 Elected members can be contacted by Parish and Town Councils regarding specific planning applications, and request that the ward member call-in the application. Under the terms of the Tunbridge Wells Agreement it is agreed that ['Call-In to Planning Committee is a last resort.'](#)
- 2.8 Planning applications should be determined within set timeframes, usually 8 or 13 weeks, and in some instances where an Environmental Impact Assessment is relevant 16 weeks. An agreed Extension of Time can be put in place to extend this period subject to applicant agreement and justification. Where an application is not determined within 26 weeks (major application) or 16 weeks (others) the Planning Guarantee means that application fees can be reclaimed. If Planning Authorities do not determine applications within set timeframes applicants can appeal against non-determination, and, if the failure to determine applications is persistent the LPA can be put into special measures by the SoS. The statistics on performance are reported on a quarterly basis to Cabinet ([Q2 2023/24](#)).
- 2.9 Officers deal with approximately 3,000 planning etc. applications per year all of which we aim to determine within statutory timeframes or extensions of time where they have been agreed. The process of writing reports, having them signed off, and decisions logged on the database and then decision notices issued requires multiple officers involvement. Under the current system this is done in a three week

window following the end of the 5 week call-in period. The pressure on officers of the department doing this is significant, particularly given local and national targets that are set to monitor the speed in which applications are determined, and having regard to weekends, and time when officers are not available owing to other work commitments, and holiday/sickness. Time pressures on the department are only likely to increase as the government has indicated the use of extensions of time and application turnaround timeframes will be further scrutinised.

- 2.10 The majority of applications are Minor or Householder in nature and are determined under delegated powers. In order to meet the statutory timeframes decisions on these applications must be made within 8 weeks. The council will notify relevant consultees including Parish Council giving them 21 days to make a representation. However the call in period is a 5 week period from the validation date. Where Parish or Town Councils require extra time in order to respond to a planning application owing to their own committee cycles, or for example over the election period they often request an extra week of the case officer who is usually amenable to this, subject to the application still being able to be determined within the set timeframe.
- 2.11 Parish Councils generally have monthly meetings of some form which consider planning applications. However, Parish or Town Councillors can raise matters with Ward members outside of meeting timeframes should they wish them to be called-in. It is not a requirement that the Parish or Town Council must have a meeting before raising an issue with a member. Similarly Members are often contacted by local residents directly and call the application in on that basis, or become aware of the application themselves (by the weekly list, site notice or e-mail alerts) and call it in should they wish to. Call-ins are not restricted to instances where the Parish Council has to contact the relevant Member first.
- 2.12 Should the call-in period be extended further to 6 weeks this will only allow for a 2 week window in which to process application decisions which would cause the department problems. This would delay the speed in which non-contentious applications could be determined which are usually determined within weeks 6 – 8 of the application timeframe.
- 2.13 Furthermore the relationship with applicants and agents is important as many are repeat customers. Leaving a call-in until the sixth week would mean requiring that an extension of time must be put in place in order to present an application to an appropriate committee. Such agreements with applicants are not guaranteed meaning the Council's performance may suffer.
- 2.14 In regard to the second matter, planning applications are made in Outline or Full format usually. When Outline applications are made these are high level applications regarding the land-use principles only (sometimes details such as access are included in the Outline stage). Details of Access, Appearance, Landscaping, Layout and Scale are usually submitted at a later date under a 'Reserved Matters' applications. Full applications, on the other hand, are considered with all the detailed information submitted at the same time.

- 2.15 Under only very limited circumstances will an Outline application be first submitted and then be changed to a Full application prior to its determination. In 2023 there was one occasion where this happened and a re-consultation was undertaken. Local members felt that the lack of an opportunity to call-in such an application put them at a disadvantage. Under this case the application was subsequently called-in by the Head of Planning Services following on from member discussion.
- 2.16 Given the limited circumstances when this change from Outline to Full happens, and that it would usually relate to a larger application, it is considered that it could be reflected in changes to the constitution as part of the call-in process. Nevertheless, with the larger outline schemes (over 20 dwellings and +2,000 sqm of floor area) Reserved Matters applications can still be called-in if it is requested by members within the 35 day period.
- 2.17 Such a change is set out at Option 2) at 3.3 below.

3. Options Considered

- 3.1 The following options have been considered with the proposed amendments to the Constitution shown as **bold and underlined**.

3.2 Option 1

12.1.12 The request for the "call-in" must be received in writing addressed to the Head of Planning Services within **six weeks (42 days)** of the date that the application is originally made valid, **unless it pertains to an Outline application that has been amended to be a Full application in which case it will be 42 days from the date when the change was first made.**

3.3 Option 2 (**Officers preferred option**)

12.1.12 The request for the "call-in" must be received in writing addressed to the Head of Planning Services within five weeks (35 days) of the date that the application is originally made valid, **unless it pertains to an Outline application that has been amended to be a Full application in which case it will be 35 days from the date when the change was first made and advertised.**

3.4 Option 3

Do nothing – which leaves the current scheme of delegation in place for Members to call in Planning Application, as per the Constitution.

4. Preferred Option and Reason

- 4.1 Officers have discussed the options available with the Cabinet Member for Housing and Planning, and the Cabinet Member for Rural Communities and the preferred option is Option 2. The call-in period would remain as 35 days and would ensure that there would be no adverse impact on the speed of determining planning applications. Adding in the ability to call-in applications that are amended from Outline to Full prior to determination is a reasonable option to include specifically.

5. Consultation on Options

- 5.1 Consultation with the Portfolio Holder for Housing and Planning, Cabinet Member for Rural communities, Planning Champion, Development Manager and Development Management Team Leader have all been undertaken to date.

Recommendation from Constitution Review Working Party and Audit and Governance Committee

- 5.2 The Constitution Review Working Party were consulted on 28 February 2024 and agreed that the officer recommendation (Option 2 paragraph 3.3 above) be supported and recommended to Audit and Governance Committee.
- 5.3 On 12 March 2024, the Audit and Governance Committee resolved to support and refer the officer recommendation (Option 2 paragraph 3.3 above) to Full Council for approval.

6. Implementation

- 6.1 Should the recommendation be approved by Full Council as per this report then the change will come into immediate effect and the Constitution will be amended accordingly.

7. Appendices and Background Documents

Appendices:

- Appendix A: Part 3 of the Council's Constitution

8. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The implications arising from the recommendations and options are detailed in the report.

Claudette Valmond - Head of Legal Partnership and Monitoring Officer.

B. Finance and Other Resources

There are no issues or implications arising from this report.

C. Staffing

There are no issues or implications arising from this report.

D. Risk Management

Risks associated with the proposed implementation of a change to the call-in period are outlined in the report namely that there would be more pressure on the decision making timeframe for officers. Potentially a deterioration in performance could have additional consequences for the council's reputation.

E. Environment (inc. Biodiversity) and Sustainability

There are no issues or implications arising from this report.

F. Community Safety

There are no issues or implications arising from this report.

G. Equalities

There are no issues or implications arising from this report.

H. Data Protection

There is no specific privacy or data protection issues to address.

I. Health and Safety

There are no issues or implications arising from this report.

J. Health and Wellbeing

There are no issues or implications arising from this report.