

# Public Document Pack

**Date of meeting**      Tuesday, 3rd February, 2015  
**Time**                      7.00 pm  
**Venue**                     Council Chamber, Civic Offices, Merrial Street,  
Newcastle-under-Lyme, Staffordshire, ST5 2AG  
**Contact**                  Julia Cleary

## Planning Committee

### AGENDA

#### PART 1 – OPEN AGENDA

- |    |   |                |
|----|---|----------------|
| 11 | Appeal and Costs Decision - Gateway Avenue                      | (Pages 3 - 8)  |
| 12 | Review of Scheme of Delegation with Respect to Planning Matters | (Pages 9 - 22) |

**Members:**      Councillors Baker (Chair), Mrs Bates, Becket, Mrs Braithwaite, Cooper, Fear, Mrs Hambleton, Mrs Heesom, Northcott, Proctor (Vice-Chair), Miss Reddish, Mrs Simpson, Waring, Welsh and Williams

**PLEASE NOTE:** The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

**Members of the Council:** If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

**Meeting Quorums :-** 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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**APPEAL BY RICHBOROUGH ESTATES LTD AGAINST THE DECISION OF THE COUNCIL TO REFUSE OUTLINE PLANNING PERMISSION FOR UP TO 113 DWELLINGS AND ASSOCIATED WORKS AT LAND AT GATEWAY AVENUE, BALDWIN'S GATE**

<b><u>Application Number</u></b>	<b>13/00426/OUT</b>
<b><u>Recommendation</u></b>	<b>Approval subject to prior securing of various planning obligations</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee 10<sup>th</sup> March 2014, following site visit</b>
<b><u>Appeal Decision</u></b>	<b>Appeal allowed and planning permission granted</b>
<b><u>Costs Decision</u></b>	<b>Partial award of costs against the Council</b>
<b><u>Date of Appeal and Costs Decisions</u></b>	<b>12<sup>th</sup> January 2015</b>

## **The appeal decision**

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00466/OUT) and the following is only a brief summary.

The Inspector concludes that the main issues in this case are:

- i. The impact of the proposal on the Council's housing strategy and whether this is a sustainable location for housing; this will include the impact on the form, character and rural setting of Baldwin's Gate and whether the loss of agricultural land is justified;
- ii. The impact on the safety and convenience of highway users in the locality;
- iii. The adequacy of the proposed affordable housing provision; and
- iv. Whether the proposal would give rise to undue flooding of neighbouring properties.

In allowing the appeal, the Inspector makes the following comments:

### *Housing strategy/sustainable development*

- The site is outside the village envelope of Baldwin's Gate, beyond which new housing would be resisted by Policy H1 of the Local Plan (LP). Policy SP1 of the Core Spatial Strategy (CSS) seeks to direct housing to sites within the inner urban core and other significant urban centres. Priority is given to previously developed land where it can support sustainable patterns of development. In the CSS Baldwin's Gate is identified a village where no further growth is planned. The proposal would therefore conflict with the provisions of the development plan.
- Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development and goes on to indicate that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted except in 2 instances. These are where any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or where specific policies in the NPPF indicate development should be restricted.
- The broad principles (set out in the LP and the CSS) of directing development towards the most sustainable locations and prioritising the use of brownfield land are broadly consistent with the principles of sustainable development set out in the NPPF
- However the NPPF seeks to boost significantly the supply of housing by a number of means including by requiring LPAs to identify and update annually a supply of specific, deliverable sites sufficient to provide 5 years' worth of housing against their

housing requirements. To this should be added a 5% buffer or 20% where there has been a record of persistent under-delivery.

- Although the Council agreed in the Statement of Common Ground that it could only demonstrate a 3.12 year supply of housing land and that the 20% buffer should apply, the Council's planning witness, Mr Bridgwood, submitted to the inquiry that the Council could demonstrate a 5.29 year supply, based on a 5% buffer. His analysis was based on a re-appraisal of a number of sites excluded from the Council's April 2014 assessments but which he now considers should have been assessed by the Council as being deliverable. This is an unusual situation in which the Council's official position differs from that of its witness.
- It is found unnecessary to examine in detail either the claimed additional supply of housing land or the appellants' counter-argument that the housing requirement should be increased to reflect the full, objectively assessed needs for affordable and market housing. This is because even accepting all of Mr Bridgwood's assertions regarding land supply and housing requirement, he himself accepts that if the 20% buffer is applied, the 5 year supply cannot be met.
- In assessing the correct buffer to apply, it is good practice to look at the Council's housing delivery figures over a significant period of time to iron out short-term fluctuations. The Council's evidence is that the target has been met in only the last 2 of the last 8 years. The fact remains that there is a large cumulative deficit of some 303 dwellings, which amounts to more than a full year's requirement. The evidence clearly demonstrates persistent under-delivery, thereby requiring a 20% buffer to be applied.
- On this basis, the Council cannot demonstrate a 5 year housing supply and therefore the relevant policies for the supply of housing should not be considered up-to-date. The weight given to them, and to the defined village envelope, should therefore be significantly reduced.
- There appears to be no obvious reason why housing delivery should not take place on the appeal site within the latter years of the 5 year period. The Council accepts that this is in a high value rural market with a very high likelihood of delivery.
- The development would have tangible economic benefits in generating jobs, injecting spending into the local economy and contributing to the Council by way of the New Homes Bonus. Whilst some of the above benefits would occur wherever in the District the housing was located, they still amount to a significant economic benefit for the locality.
- There would also be social benefits. The provision of both market and affordable housing in a District that lacks the minimum 5 year supply will contribute to meeting housing needs and help to create a mixed and inclusive community. The education contributions in the planning obligation should ensure no undue detriment to local schools and the provision of public open space and play facilities on site should benefit the whole village. The influx of new residents should help support local services and contribute to the vitality of this rural community.
- Although not one of the 3 defined Rural Service Centres, Baldwin's Gate has a significant range of facilities within walking distance of the appeal site and there are additional services at nearby Whitmore. There is an hourly bus service along the A53 and although it does not run very early in the morning or late at night and is limited at weekends, it still provides the opportunity for the use of public transport for some work and/or leisure trips. Whilst there would inevitably be a high level of dependence on the use of the private car and the thrust of strategic policy is to direct most development towards the main urban areas, this is not a remote, rural location and the journey distances to higher order settlements and facilities are fairly short.
- The development of Baldwin's Gate has largely taken place in the form of small to medium sized post-war housing estates on either side of the A53. These contain predominantly detached houses and bungalows in a variety of sizes and styles. Although the densities vary, the predominant characteristic is of frontage development and in places dwellings are very closely built together. The proposed density, at 26 dwelling per hectare in the developable area, strikes an acceptable balance between reflecting the character of the village housing and making efficient use of housing land.

- In any event, density alone is not a good indicator of the character or appearance of a development. Subject to control over detailed design, form and materials of the development at reserved matters stage, a development of suitably high design quality could be achieved, so long as the principles set out in the Design and Access Statement are followed..
- There is little doubt that the proposal would be a significant encroachment of the village into what is presently open countryside. The site's main role in the landscape appears to be its openness as a foreground to distant views of the hills, when looking outward, and to the village when looking inward.
- Looking out from the village, the proposal would result in a considerable impact on the private views from the adjoining dwellings. However, the indicative layout shows that breaks in the built development could maintain visual corridors to extend public views from the 4 cul-de-sacs that lead out into the countryside beyond. Those walking north out of the village along the public footpath would lose the experience of being in agricultural surroundings for the first 90m or so of entering the site but this could be mitigated to a considerable degree by the proposed landscaped area through which the footpath would pass.
- Walking along the public footpath towards the village, the present village fringe is a mix of garden vegetation interspersed with the hard built form of dwellings and fences. The indicative scheme shows a landscaped perimeter around the proposed dwellings of between 20 to 50 m in depth and whilst it would take time for the landscaping to become effective, in due course it should lead to a more attractive village fringe than at present, consistent with the aims of the Urban Design Guidance SPD.
- From more distant elevated vantage points the visual intrusion would be moderate or slight when the impact of the landscape mitigation is taken into account.
- Accordingly, whilst there would be considerable short term visual harm caused by the development and the construction access, the proposed mitigatory planting would help to integrate the development into the wider landscape without undue harm to the rural surrounds of the village.
- Whilst best and most versatile agricultural land (BMVAL) is an important national resource, there is no information as to whether the Council is aware of deliverable housing sites that could contribute to the shortfall in the 5 year housing supply which are on lesser quality land. The loss of BMVAL however weighs against the proposal.
- In conclusion, the lack of a 5 year supply of housing land is an important material consideration which means that the housing policies in the development plan, including the definition of the village envelope, have significantly reduced weight. Although Baldwin's Gate performs less well than other, larger settlements in terms of accessibility and range of facilities, it can be regarded as a reasonably sustainable location. The intrusion into the countryside and the loss of BMVAL are negative aspects of the proposal but there are economic, social and environmental benefits, most notably related to increasing the supply and variety of housing, which outweigh any harm to the aims of the development plan.

*The safety and convenience of highway users in the locality*

- The Highway Authority has no highway objections but the Council raised 3 issues in its highways reason for refusal: the inadequate width of Gateway Avenue, the inadequacy of its junction with the A53 and the inadequacy of the junction of the proposed construction access with the A53.
- Gateway Avenue is a residential cul-de-sac which is wide enough to allow 2 cars to pass safely and for a car to pass a refuse vehicle at low speeds, save at the point in the road where there is a very gentle bend. As with any normal residential access road, parked cars would inhibit traffic flow but all the present frontage dwellings have adequate driveway parking and the level of on street parking appears generally low.
- The road has sufficient capacity to accommodate the projected traffic flows. Its limited width and presence of occasional parked cars make it most likely that traffic speeds would remain low. The occasional overrun of the footway by impatient drivers cannot be ruled out but this is likely to be infrequent and at low speed, thereby minimising the risk to pedestrians.

- With respect to the A53, residents pointed to a number of unrecorded traffic incidents but to take account of 'unofficial' statistic would not allow a fair comparison to be made nationally. The A53's accident record does not appear to be unusually high for a village of this type.
- Crucial to the question of the adequacy of the Gateway Avenue junction is whether the visibility standards set out in Manual for Streets (MfS) or those in Design Manual for Roads and Bridges (DMRB) should apply. The junction meets the standards of the former but not the latter. Whilst it would be appropriate to apply the DMRB standards on the A53 generally, it would not be so in this case where it is passing through a built up area with a 30mph speed limit in force. MfS indicates that the application of MfS advice to all 30mph speed limits should be the starting point and a place-sensitive approach should be used to take account of local circumstances. Here, traffic surveys indicate that vehicles speeds on the A53 are not excessive and there is a Community Speed Watch programme in place which, along with other measures set out in the Travel Plan, should ensure this remains the case.
- The proposed pedestrian crossing appears beneficial to the safety of both future and existing residents, particularly as the primary school and both shops are on the opposite side of the road to the proposed development. Moreover it would be an additional feature helping to moderate traffic speeds on the A53. There appears to be sufficient footway width for its efficient operation.
- The proposed construction access onto the A53 appears to have adequate visibility splays for its location and measured traffic speeds. There is a potential hazard in the event that 2 large vehicles were to meet at the entrance but as this is likely to be rare and the drivers would each have elevated driving positions with good forward visibility, it is unlikely to give rise to a highway safety problem.
- The NPPF indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. That does not appear to be the case here and the proposal would not unduly harm the safety and convenience of highway users.

#### *The affordable housing position*

- Policy seeks the provision of 25% affordable housing on sites of this size. The appellants seek a hybrid approach to affordable housing provision with 16% provided on site and the balance made up by a commuted sum for provision elsewhere in the Borough. The Council seeks to have the whole of the affordable housing provision on site to provide a balanced and well-functioning housing market. The NPPF indicates that ,where it has been identified that affordable housing is needed, it should be provided on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified
- The appellants submitted an Affordable Housing Delivery Plan which considered local need and supported the hybrid approach. The Council has no up-to-date needs survey for Baldwin's Gate to justify the 25% on-site provision and acknowledges the high level of need for such housing in other areas of the Borough.
- The appellants' hybrid approach is considered entirely appropriate for this site.

#### *Flood risk*

- A flood risk assessment has been carried out to seek to address the surface water issue and the intention is to incorporate a sustainable drainage system to limit surface water run-off in storm events. The Environment Agency is content that this matter can be suitably addressed and subject to the design and installation of suitable drainage systems, there would be no undue additional risk of flooding to neighbouring dwellings.
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#### *Conclusion*

- The weight to be attributed to the housing policies in the development plan is significantly reduced by the failure of the Council to demonstrate a 5 year supply of developable housing land.
- The NPPF reflects Government policy to achieve a step change in housing delivery and this proposal accords with the aims of the NPPF.
- The test of paragraph 14 of the NPPF is whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF when taken as a whole. The loss of an area of countryside, which is BMVAL, and the likelihood of a high level of private car use are factors weighing against the proposal. However, the benefits of contributing to the shortfall in housing, including affordable housing and the diversification of the housing stock, of contributing to the local economy and to the support of local facilities, are matters of greater weight and lead to the conclusion that the appeal should succeed.

### Costs Decision

The Costs decision letter records the submission by the appellants and the response by the Council. The letter is available in full to view on the Council's website (as an associated document to application 13/00466/OUT). The costs application is made because of the Council's unreasonable behaviour with regard to i. the issue of the 5 year housing land supply and ii. the matter of density. In allowing the application for a partial award of costs, the Inspector made the following comments:

- The (National) Planning Practice Guidance (PPG) advises that all parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
- The PPG refers on procedural matters "to introducing fresh and substantial evidence at a late stage necessitating...extra expense for preparatory work that would otherwise not have arisen."
- With respect to the issue of the **5 year housing land supply** the Council had agreed a Statement of Common Ground (SOCG) with the Appellants on 15 August 2014 in which the question of housing land supply was expressly addressed. The Council accepted that the appropriate buffer to apply was 20% and that it could not demonstrate a 5 year supply of housing land.
- Had that position remained the case at the inquiry, the appellants would not have needed to address the matter any further. However, the Council's witness, Mr Bridgwood, contacted the appellants 2 days prior to the date for the exchange of proofs indicating that he would be arguing a different position at the inquiry. This position was not supported by any Council publication or internal report, nor did it even appear to be the formal position of the Council. The case promoted by Mr Bridgwood relied upon his own re-appraisal of housing sites in which he came to a conclusion on deliverability which differed from that of the Council in its April 2014 Annual Assessment. He differed from the Council on the use of the 20% buffer and he 'retro-fitted' to the Assessment sites which had obtained planning permission since April 2014.
- The process seemed to be very much 'on-the-hoof' and lacking in transparency and there was little evidence of consultation with relevant interested parties on the developability of sites. There appeared to be little respectable basis for the adoption of a 5% buffer and the use of hindsight to alter the April 2014 assessment appears at best a questionable approach.
- This late introduction of fresh and substantial evidence required the appellants to address the matter of housing land supply and to produce a rebuttal proof. The full list of sites relied upon by Mr Bridgwood was not supplied to the appellants until the first day of the inquiry, requiring additional research to be undertaken during the course of the inquiry.

- On the question of **density**, the reason for refusal relates to the impact on the character of the village. The Council made little attempt to assess the existing character of the village as a starting point from which to evaluate the impact. The evidence said little more than that the proposed density would differ from the existing densities which were set out in the appellant's Design and Access Statement. Yet the appellants produced ample illustrative matter upon which an assessment of character impact could be based and they consulted MADE, an independent design review panel based in Birmingham. The Council failed to provide a respectable basis to justify this reason for refusal.
- In conclusion, the Council behaved unreasonably thereby causing the appellants to incur additional expense. The application for a partial award of costs is allowed.

**Your Officer's comments**

It is intended to provide by means of a supplementary report comment upon the appeal and costs decisions, it being considered important that the Committee have the opportunity to discuss these decisions at the meeting on the 3<sup>rd</sup> February and to be able to ask officers for comment on any steps to be taken with respect to these decisions.



## REPORT TO 3<sup>RD</sup> FEBRUARY 2015 PLANNING COMMITTEE

### Proposed Revisions to Planning Scheme of Delegation

#### Purpose of the Report

To update the current Planning Scheme of Delegation to reflect recommendations arising following the recent Planning Peer Review.

#### Recommendations

- (1) That Planning Committee endorse proposals outlined in section 4 of this report and set out the revised Planning Scheme of Delegation (attached as Appendix B)**
- (2) That Planning Committee recommend that the revised Planning Scheme of Delegation be adopted by the Council**

#### 1. Background

The Planning Peer Review Team gave a recommendation to the Council that it re-examine the scheme of delegation to allow the Planning Committee to focus on major applications. In giving their feedback the Review Team commented as follows

*“Rates of delegated decisions have dropped below 90 per cent. This results in more applications being taken at the planning committee. During the on-site phase of the peer challenge we attended the planning committee which spent a long time discussing reserved matters applications. To ensure that the capacity of the committee is focused on strategic decision making we recommend that the Council reviews its codes and protocols to seek to increase rates of delegation to match the best in England.”*

Cabinet on the 12<sup>th</sup> November in resolving to agree an Action Plan in response to the Planning Peer Review Team’s report agreed to the following action- that the Council should review its Scheme of delegation (of its Planning functions) with particular reference to telecom apparatus, consultations by other authorities, historic building grant applications

The existing Scheme of Delegations is attached as Appendix A to this report

The Scheme of Delegations forms part of the Council’s Constitution and any changes made will therefore need to be approved by Full Council. The Scheme of Delegation is part of the legal framework set by the Council governing the way it conducts its business. An appropriate Scheme of Delegation supports good governance and budgetary compliance

#### 2. Issues

This report is to request the consideration of Planning Committee to changes to certain delegations. Members may recall that in a workshop organised for the Planning Committee the following conclusions were reached during the course of a brief workshop session (as part of a workshop session that considered four of the recommendations of the Planning Peer Review Team)

- Any change to the scheme of delegations must obtain the support of the Planning Committee before being considered by Full Council
- Probity safeguards i.e. the determination of applications by members and officers and their close relatives should remain
- The focus of any review should be on
  - reference of telecommunication developments to committee

- review of the call in procedure, perhaps introducing a further filter – the approval of Chair to the proposal that the item come before the planning committee, but members did not favour this option

### 3. The existing Scheme of delegations of planning functions

The Scheme lists an extensive number of functions and indicates whether these functions, or authority to exercise a particular power, are to be exercised by the Planning Committee, by the Executive Director of Regeneration and Development, or in certain instances by both of the above.

The focus of this report is mainly on the authority to deal with applications, although it will be noted from the existing scheme of delegations that the authority to deal with certain types of applications makes up a relatively small part of the Scheme of Delegation.

With respect to the planning applications the position at present is that applications broadly fall to be determined by the Executive Director- i.e. under delegated powers, unless they are for Major Development, as defined by the DCLG, for the demolition of any Listed Building (of whatever Grade), and for the alteration or extension of a Grade 1 or 2\* Listed Building. Such applications **automatically** come before the Planning Committee, regardless of any member interest expressed or judgement by officers.

A similar group of applications which comes, at present, automatically to the Planning Committee, is applications either for prior approval or for planning permission that involve telecommunication apparatus

In addition these criteria set out in the scheme of delegation, in the case of several delegated functions (with respect to applications) there is a right of two or more members to 'call in' an application for determination by the Planning Committee. Such call-ins have to be made within 10 working days of the publication of the weekly list of applications received. Those who have called in an application are also provided, where there is the opportunity to do so, with the ability to withdraw such a call in (by the provision to them of a draft of the report to the Committee).

There are other criteria which lead to applications being brought to the Planning Committee

As indicated above the Planning Peer Review Team made comment about the fact that the Planning Committee observed by them (on the 15<sup>th</sup> July) considered applications for the approval of reserved matters of several Major Developments. Their view, it would appear, was that given that such developments had already outline planning permission the Committee, by considering the subsequent reserved matters, was not sufficiently focussed on strategic decision making. As members will be aware an outline planning permission can reserve for subsequent decision making a number of matters – scale, layout, appearance, access and landscaping. Each of these terms is defined in legislation.

Your Officer's view is that to remove from the list of applications which automatically come before the Planning Committee those for the approval of reserved matters for major developments would not be justified – in that these are still applications for Major Development. There is however one suggested exception. In recent years, principally in order to defer the significant additional fees associated with of applications for full planning permission it has been the practice of some agents to make applications for outline planning permission with the **only** reserved matter being the landscaping details of the development. It is considered that recognising the limited likely interest of landscaping matters, and the often technical nature of judgements, it would be appropriate to no longer require such applications automatically to come before the Planning Committee. This is Proposal No.1 within this report. Such applications could still of course be "called in".

At present all applications for telecommunication apparatus automatically come before the Planning Committee. With respect this appears, to your officer, to be serving, no clear purpose and whilst the

number of such applications has varied considerably over time, they do insofar as they require members of the Committee to read the reports upon them divert the attention of members, and a change to the Scheme of Delegation appears appropriate. This is Proposal No.2 within this report.

As indicated above most of the delegated functions, at least with respect to applications, are subject to a right of call in. At present upon the receipt of sufficient number of call in requests, in writing and by the due date, the application, unless the call-in is subsequently withdrawn, proceeds to be determined by the Committee. In some authorities the Chairman has the right, reflecting their role with respect to the business of the Committee, to reject requests by members that an application be considered by the respective Planning Committee. Whether the existence of this right would make any substantive difference to the business of the Committee is of course entirely a matter for speculation. Your officer acknowledges that in the absence of agreed criteria (for the rejection of call -ins) it would place the Chair in a difficult position with respect to the members who were wanting the application to be considered by the Committee. Devising and defining such criteria would be fraught with difficulty. Your officer is not, for this reason, putting forward this proposal.

A preliminary examination of call in records suggest that whilst members are strongly encouraged to speak to officers before submitting a call in, this does not happen in a significant number of cases. It is only speculation but this could be because the Councillors concerned know that they will be able to decide later on to withdraw their call in, or it may relate to difficulties officers and members have in making contact at short notice for such discussions. There is the possibility that by lengthening the period (currently 10 days) to say 15 days,, members might feel more able to take a more considered view on whether or not to call in an application, and this could reduce the number of call ins coming to the Committee. The period within which an application can be called in commences upon the publication of what is termed the weekly list of applications received. Such lists are currently normally produced on the Friday of the following week - which can mean that an application does not appear on such a list until up to 11 days have passed – if it has been received and was valid on the preceding Monday. For an application to be found valid it has to go through various checks by Support officers and in the case of Major applications by Senior Planning Officers. To avoid a situation, with an extended 15 day call in period where it frequently became inevitable that if an application was called in it would not come to the Committee until after the 8 week date, a change in the day of the week when the weekly list is produced is essential. This will be challenging for the Service, but necessary. Proposal No.3 is therefore to extend the call in period to 15 working days, with it be a precondition of a call in that each member involved has spoken beforehand either to the Planning Officer or to the Development Management Team Leader.

As members will note the existing scheme of delegation seeks to allow for the exercise of delegated authority only to where the decision is in accordance with the development plan and other relevant material considerations, most notably national guidance. The redrafting of this section of a general delegated authority requires updating to reflect current national guidance anyway and this is Proposal No.4 within this report

Members will have noted that because of this requirement that delegated decisions must be in accordance with the development plan and other relevant considerations, including national guidance, officers are bringing quite frequently to the Committee decisions on extensions to dwellings and equestrian developments because the conclusion reached, by officers, that the developments constitute inappropriate development within the Green Belt. It is considered that little value is added by this particular process in general so Proposal No.5 would enable officers to determine, with respect to inappropriate development consisting of either domestic extensions or what might be termed small scale equestrian development, such applications. Again the possibility that such applications might be called in remains.

The existing scheme of delegation requires that if the Council is consulted, by another adjoining Local Planning Authority, or by the County Council, upon any application for Major Development, determination of the Council's comments can only be made by the Planning Committee. Given that the Borough Council is not acting as the Local Planning Authority in such instances it would appear unnecessary for the Planning Committee to be asked for its views on consultations on applications

for approval of reserved matters – the Borough Council having already had the opportunity to comment on the principle of the development at Outline stage. This is Proposal No.6. Such consultations are not subject to a right of call in.

#### 4. The proposed changes

In summary the proposals being recommended to the Committee are as follows

**Proposal No.1** – That Reserved Matters applications for Major development, where the only reserved matter is landscaping, would not automatically require to come before the Planning Committee

**Proposal No.2** - That applications for telecommunication apparatus would not automatically require to come before the Planning Committee

**Proposal No.3** – To extend the call in period to 15 working days, with it being a precondition of a call in that at least each Member involved has spoken beforehand either to the Planning Officer or to the Development Management Team Leader about the application.

**Proposal No.4** – To redraft the general statement concerning the requirement for delegated decisions to be made in accordance with the development plan and other material considerations

**Proposal No.5** – That notwithstanding Proposal No.4 Officers have delegated authority to determine applications for extensions to dwellings and small scale equestrian developments, even if they are considered to constitute inappropriate development in Green Belt terms

**Proposal No.6** – That consultations from adjoining Councils or the County Council on applications for the approval of reserved matters of outline planning permissions for Major Development are able to be responded to by the Executive Director

A further appendix, Appendix B, will be circulated in advance of the meeting and will provide the proposed Scheme of Delegation of Planning functions in a manner to enable members to see the detailed changes that are proposed

## SPECIFIC FUNCTIONS

### PLANNING FUNCTIONS

	<b>FUNCTION</b>	<b>EXERCISED BY</b>
(1)	To determine applications for planning permission or approval (i.e. outline permission, full permission, change of use, temporary permission, demolition approval, approval of reserved matters or approval of details), listed building consent, or consent to display advertisements	Planning Committee
(2) (a)	<p>To determine applications for planning permission, consent or approval (i.e. outline permission, full permission, change of use, temporary permission, listed building consent, approval of reserved matters or approval of details, (unless required by the conditions of an express grant of planning permission)) for which permission or approval may be granted or refused in accordance with the policies of the approved development plan for the area, national guidance, the emerging development plan and supplementary planning guidance having regard to the appropriate weight to be given to each of these in accordance with S.70(2) of the Town and Country Planning Act 1990, as amended and S.38(6) of the Planning and Compulsory Purchase Act 2004; <u>unless</u> two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received, require the application to be referred to the Planning Committee</p> <p>This class to exclude:</p> <p>(i) All Major Developments (major residential proposals are those involving 10 or more dwellings or, where the number is not known, half an hectare). For all other uses, a Major Development is one where the floorspace to be built is 1000 square metres or more or where, if the floorspace is not known, the site area is one hectare or more</p> <p>(ii) Any proposals for the demolition, as defined in national guidance, of a Listed Building</p> <p>(iii) Any proposals for the alteration or extension of a Grade 2* or Grade 1 Listed Building</p>	Executive Director (Regeneration and Development)

2(b)	To determine applications for approval of details where required by the conditions of an express grant of planning permission (except for applications for approval of reserved matters of an outline planning permission) for which approval may be granted or refused in accordance with the policies of the approved development plan for the area, national guidance, the emerging development plan and supplementary planning guidance having regard to the appropriate weight to be given to each of these in accordance with Section 70(2) of the Town and Country Planning Act 1990, as amended and Section 38(6) of the Planning and Compulsory Purchase Act 2004;	Executive Director (Regeneration and Development)
2(c)	To determine whether or not prior approval is to be given (under Class A to Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order), in the case of otherwise permitted larger house extensions	Executive Director (Regeneration and Development)
2(d)	To determine whether or not prior approval is to be given with respect to otherwise permitted development within the following Classes – IA (change of use of shops to dwellings), J (change of use of offices to dwellings), K (change of use of buildings to schools), M (change of use to a flexible use), MA (change of use of agricultural buildings to schools and nurseries) and Class MB (change of use of agricultural buildings to dwellings) - of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order); <u>unless</u> two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received, require the application to be referred to the Planning Committee	Executive Director (Regeneration and Development)
(2)(e)	To determine whether or not prior approval is to be given with respect to otherwise permitted development under Parts 6 and 7 to the Town and Country Planning (General Permitted Development) Order (agricultural and forestry buildings and associated developments); <u>unless</u> two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received, require the application to be referred to the Planning Committee	Executive Director (Regeneration and Development)
(2)(f)	To determine whether or not prior approval is to be given with respect to otherwise permitted development under Part 24 to the Town and Country Planning (General Permitted Development) Order being any development by Telecommunications Code system Operators	Planning Committee

	that includes antennas installed on a building or structure	
(2)(g)	To determine whether or not prior approval is to be given with respect to otherwise permitted development under Part 24 to the Town and Country Planning (General Permitted Development Order being any development by Telecommunications Code System Operators, that does not include antennas installed on a building or structure	Executive Director (Regeneration and Development)
	To determine whether or not prior approval is to be given to otherwise permitted development under Part 31 to the Town and Country Planning (General Permitted Development) Order 1995 – demolition of buildings; <u>unless</u> two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received, require the application to be referred to the Planning Committee	Executive Director (Regeneration and Development)
(3)(a)	To comment on County Matters  (This class to exclude all Major Developments – where the floorspace to be built is 1000 square metres or more or, where the floorspace is not known, the site area is one hectare or more)	Executive Director (Regeneration and Development)
(3)(b)	To comment on County Matters that are for Major Development – where the floorspace to be built is 1000 square metres or more or, where floorspace is not known, the site area is one hectare or more	Planning Committee
(4)	To identify planning applications on which the County Planning Authority should be consulted (Local Government Act 1972, Sch.16 (as amended))	Executive Director (Regeneration and Development)
(5)	To determine applications for a certificate of existing or proposed lawful use or development (Town & Country Planning Act 1990, S.191-194)	Executive Director (Regeneration and Development)
(6)	To determine applications for the issue of Certificates of Appropriate Alternative Development (Land Compensation Act 1961, S.17)	Planning Committee
(7)	To determine submissions for authorisation to carry out development in accordance with the terms of the Town and Country Planning General Regulations	Planning Committee
(8)	To comment on applications to the Secretary of State for Energy, proposing overhead electricity transmission lines (consultations in accordance with Circular 14/90)	Executive Director (Regeneration and Development)
(9)	To comment on urgent applications for Crown Development	Executive Director (Regeneration and Development)

<p>(10) (a)</p> <p>(i)</p> <p>(ii)</p> <p>(iii)</p>	<p>To comment favourably or otherwise on proposals for development submitted by the County Council in accordance with the terms of the Town and Country Planning General Regulations. This class to exclude:</p> <p>All Major Developments. Major residential proposals are those involving 10 or more dwellings, or where the number is not known, half a hectare. For all other uses, a Major Development is one where the floorspace to be built is 1000 square metres or more or, where the floorspace is not known, the site area is one hectare or more</p> <p>Any proposals for the demolition, as defined in national guidance, of a Listed Building</p> <p>Any proposals for the alteration or extension of a Grade 2* or Grade 1 Listed Building</p>	<p>Executive Director (Regeneration and Development)</p>
<p>(10) (b)</p> <p>(i)</p> <p>(ii)</p> <p>(iii)</p>	<p>To comment favourably or otherwise on proposals for development submitted by the County Council in accordance with the terms of the Town and Country Planning General Regulations which are for:</p> <p>All Major Developments. Major residential proposals are those involving 10 or more dwellings, or where the number is not known, half a hectare. For all other uses, a Major Development is one where the floorspace to be built is 1000 square metres or more or, where the floorspace is not known, the site area is one hectare or more</p> <p>Any proposals for the demolition, as defined in national guidance, of a Listed Building</p> <p>Any proposals for the alteration or extension of a Grade 2* or Grade 1 Listed Building</p>	<p>Planning Committee</p>
<p>(11) (a)</p> <p>(i)</p>	<p>To comment favourably or otherwise on proposals for development on which the Council is consulted by a neighbouring authority based upon relevant planning policies and the likely impact upon the interests of the Borough. This class to exclude:</p> <p>All Major Developments. Major residential proposals are those involving 10 or more dwellings, or where the number is not known, half a hectare. For all other uses, a Major Development is one where the floorspace to be built is 1000 square metres or more or, where the floorspace is unknown, the site area is one hectare or more</p>	<p>Executive Director (Regeneration and Development)</p>



(ii)	Any proposals for the demolition, as defined in national guidance, of a Listed Building	
(iii)	Any proposals for the alteration or extension of a Grade 2* or Grade 1 Listed Building	
(11) (b)	To comment favourably or otherwise on proposals for development on which the Council is consulted by a neighbouring authority based upon relevant planning policies and proposals and the likely impact upon the interests of the Borough, such proposals being for:	Planning Committee
(i)	All Major Developments. Major residential proposals are those involving 10 or more dwellings, or where the number is not known, half a hectare. For all other uses, a Major Development is one where the floorspace to be built is 1000 square metres or more or, where the floorspace is unknown, the site area is one hectare or more	
(ii)	Any proposals for the demolition, as defined in national guidance, of a Listed Building	
(iii)	Any proposals for the alteration or extension of a Grade 2* or Grade 1 Listed Building	
(12)	To authorise the creation by agreement, and the, modification or discharge of planning obligations under S.106 and 106A of the Town and Country Planning Act 1990	Planning Committee
(13)	To exercise the Council's powers of enforcement of planning control, including in relation to Listed Buildings, Conservation Areas and tree enforcement including, in relation to trees, Part VIII, Town and Country Planning Act 1990	Planning Committee/ Executive Director (Regeneration and Development)
(14)	To authorise the service and enforcement of Notices and the recovery of expenses under S.215 –218 of the Town and Country Planning Act 1990	Planning Committee and/or Executive Director (Regeneration and Development) / Chief Executive
(15)	To authorise the service of information requisitions and Planning Contravention Notices S.171C of the Town and Country Planning Act 1990; S.330 of the Town and Country Planning Act 1990 and S.16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive Director (Regeneration and Development) / Chief Executive

(16)	To exercise all the Council's powers in relation to advertisements under S. 220-222 of the Town and Country Planning Act 1990 and subordinate Regulations	Executive Director (Regeneration and Development)
(17)	To exercise all the Council's powers in relation to advertisements under S. 223 - 225 of the Town & Country Planning Act 1990 and subordinate Regulations	Planning Committee and/or Executive Director (Regeneration and Development)
(18)	To exercise the Council's powers to make Tree Preservation Orders and to control felling, topping, lopping and re-planting under such Orders	Executive Director (Operational Services) and/or Head of Business Improvement, Central Services and Partnerships
(19) (a)	To confirm Tree Preservation Orders	Planning Committee
(b)	To make Tree Preservation Orders	Executive Director (Operational Services) and/or Head of Business Improvement, Central Services and Partnerships
(20)	To screen applications and determine whether an environmental impact assessment is required and to respond to applicants who enquire whether such an assessment is needed and the scope of such an assessment	Executive Director (Regeneration and Development)
(21)	To exercise all the powers under the Planning (Listed Buildings and Conservation Areas) Act 1990, other than those expressly included in 2(a) above	Executive Director (Regeneration and Development)
(22)	To exercise all the powers under the Planning (Hazardous Substances) Act 1990	Planning Committee
(23)	To authorise an application to the Court for an injunction to restrain any actual or apprehended breach of planning control including Listed Building control and breach of a Tree Preservation Order	Planning Committee and/or Chief Executive
(24)	To authorise any person to enter land in connection with the exercise by the Council of its powers of enforcement of planning control including Tree Preservation and Listed Building control	Planning Committee and/or Executive Director (Regeneration and Development) and/or Executive Director (Operational Services)
(25)	To authorise any person to enter land in accordance with the provisions of the Town and Country Planning Act 1990	Planning Committee Executive Director (Regeneration and Development) or Executive Director (Operational Services)
(26)	To refuse to entertain an application where statutory requirements have not been complied with	Executive Director (Regeneration and Development)

(27)	To exercise all the Council's powers under the provisions of the Town and Country Planning Act 1990 and Regulations made thereunder relating to the revocation and modification of planning permission; the discontinuance of use or alteration of buildings or works; Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995; and termination of planning permission by reference to time limits (Completion Notices)	Planning Committee
(28)	To determine whether the prior approval of the Council will be required in relation to developments proposed under the following Classes – IA (change of use of shops to dwellings), J (change of use of offices to dwellings), K (change of use of buildings to schools), M (change of use to a flexible use), MA (change of use of agricultural buildings to schools and nurseries) and Class MB (change of use of agricultural buildings to dwellings) - of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order) <u>unless</u> two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received, require the application to be referred to the Planning Committee	Executive Director (Regeneration and Development)
(29)	To determine whether the prior approval of the Council will be required in relation to developments proposed under Parts 6 and 7 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 - agricultural/forestry buildings and operations ; <u>unless</u> two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received, require the application to be referred to the Planning Committee	Executive Director (Regeneration and Development)
(30) (a)	To determine whether the prior approval of the Council is required in relation to developments proposed under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, for any development by Telecommunications Code System Operators, that includes antennas installed on a building or structure	Planning Committee
(31) (b)	To determine whether the prior approval of the Council is required, in accordance with Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, for any development by	Executive Director (Regeneration and Development)

	Telecommunications Code System Operators, that does not include antennas installed on a building or structure	
(32)	To determine whether the prior approval of the Council will be required in relation to developments proposed under Part 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 - the demolition of buildings; <u>unless</u> two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received, require the application to be referred to the Planning Committee	Executive Director (Regeneration and Development)
(33)	To determine which applications should be advertised by means of a discretionary press notice	Executive Director (Regeneration and Development)
(34)	To exercise the powers under the Hedgerow Regulations (Environment Act 1995, Section 97)	Executive Director (Regeneration and Development) / Executive Director (Resources and Support Services) / Executive Director (Operational Services)
(35)	To determine applications under the Anti-social Behaviour Act 2003 (Part 8, High Hedges)	Planning Committee
(36)	To determine applications submitted under the Anti-social Behaviour Act 2003 (Part 8, High Hedges) unless two or more Members by notice in writing within 10 working days of the date of publication of the weekly list of applications received require the application to be referred to the Planning Committee	Executive Director (Regeneration and Development)
(37)	To authorise the taking of enforcement action under the Anti-social Behaviour Act 2003 (Part 8, High Hedges)	Executive Director (Regeneration and Development)
(38)	To issue notifications under Article 4 of the Town and Country Planning (Development Management Procedure) Order 2010 (requirement to include details in applications for outline planning permission)	Executive Director (Regeneration and Development)
(39)	To exercise the power to decline to determine applications/overlapping applications and retrospective applications under S. 70A, 70B and 70C of the Town and Country Planning Act 1990	Executive Director (Regeneration and Development)

(40)	Processing of all appeals	Head of Business Improvement, Central Services and Partnerships and Executive Director (Regeneration and Development)
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