PLANNING DEVELOPMENT CONTROL COMMITTEE

11 December 2008

SUB-COMMITTEES PROCEDURES AND MINOR CHANGES TO THE CONSTITUTION

REPORT OF HEAD OF DEMOCRATIC SERVICES

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RECENT REFERENCES:

PDC744 - Appointment of Sub Committees 2008/2009 - 22 May 2008

EXECUTIVE SUMMARY:

At its annual Informal Meeting held on 20 October 2008, the members of the Planning Development Control Committee present agreed to consider possible changes to the way in which the Planning Development Control (Viewing) Sub-Committee and the Planning Development Control (Telecommunications) Sub-Committee operates.

An Informal Group was established at the subsequent full Planning Development Control Committee meeting, held on 21 October 2008. This appointed Councillors Jeffs, Huxstep, Barratt, Busher and Ruffell to the Informal Group, which met on 6 November 2008.

This Informal Group considered a number of options to improve the operation of these Sub-Committees and recommended the changes as set out in Sections 5, 6 and 7 of this Report.

RECOMMENDATIONS:

1   That the new procedure for the Planning Development Control (Viewing) Sub-Committee be agreed as set out at Section 5 of the Report and the Planning Protocol and Constitution be amended as necessary as part of the annual review process.

2   That the new procedure for the Planning Development Control (Telecommunications) Sub-Committee be agreed as set out at Section 6 of the Report and the Planning Protocol be amended as necessary at the next review of the Protocol.

3   That, in recognition of their role in representing the view of the Council and the local community, Portfolio Holders be permitted to speak for up to five minutes each at the end of the public participation slot reserved for Ward Members.

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DETAIL:

1.   The Background to Viewing Sub-Committees

1.1   The Council has operated Planning Development Control (Viewing) Sub-Committees (hereafter referred to as Viewing Subs) for a number of years, with delegated powers to determine applications.

1.2   Prior to the adoption of the current procedure, when applications were referred to Viewing Sub-Committees, the Sub-Committee met on-site with the applicant, residents and parish councils where relevant. The Sub-Committee received a presentation from the planning case officer on-site, which was followed by an open period of public participation (with no formal time limits, and subject only to the Chairman's general discretion in running the meeting) and Councillors' questions and debate. The meeting concluded with a decision of the Viewing Sub, in the form of a recommendation to the next meeting of the full Planning Development Control Committee, which was recorded in the minutes of the Viewing Sub. The minutes (including the recommendation from the Viewing Sub) were then considered by the main Planning Development Control Committee, which determined the application.

1.3   This arrangement was changed for a number of reasons. Firstly, it was considered that the process was slow with many duplicated stages. Secondly, the original procedure ran into a number of practical difficulties. Holding public meetings on site, whilst a very "direct" example of taking local government to the community, did have practical difficulties, such as some people being unable to hear the debate and, often, having to contend with inclement weather conditions. Other than at the Chairman's discretion, there was also no agreed procedure for dealing with public participation and defining the deliberation and decision making parts of the meeting.

2.   The Current Arrangements

2.1   Therefore the current arrangements were introduced, which delegated the determination of the application to the Viewing Sub-Committee, and also introduced public speaking arrangements, mirroring those of the main Committee.

2.2   Currently, a Viewing Sub-Committee would only be convened where the main Committee decides that it is unable to determine the application because it is not possible to properly assess the application and its impact from the officers' report, oral presentation and from photographs. Any member of the Committee

may request a Viewing Sub-Committee at any stage following the public participation element of the meeting and, if agreed, a date is set. The main Committee must also specify its reasons for deciding to visit the site.

2.3   On the day of the Viewing Sub-Committee, Planning Members and officers inspect the site. The purpose of this is for the planning officers to point out matters of fact to Members and for the Sub-Committee to gain a better appreciation of how the application relates to the topography of the land and surrounding buildings and features. The merits or otherwise of the application should not be discussed during the site visit. The site visit does not form part of the formal public Viewing Sub-Committee and is not subject to the usual Access to Information provisions for Council meetings. Therefore, although Ward Members are allowed on site, the public and Parish Council representatives are not. The public are however invited to attend and register to speak at the formal Viewing Sub-Committee public meeting, held usually immediately after the site visit in a local hall (where available).

2.4   At the public meeting, the planning officer presents the application to the Committee followed by another round of public participation and Members' questions and debate. At the conclusion of the meeting, the application is determined. The minutes of the meeting are considered at the next available Planning Development Control Committee for information only (as the application has already been determined).

3.   Disadvantages of the Current Arrangements

3.1   At the meeting of the Informal Group, held on 5 November 2008, Members were concerned that the current arrangements suffered from unnecessary duplication. The existing arrangements meant that Members heard the officer's presentation and public participation (including Ward Members' and Parish Council's deputations) twice. There were also concerns that the public participation session was effectively held twice for that application.

4.   Options for Change

4.1   The Informal Group considered two main options for change.

4.2   Under the first option, Members would vote for Viewing Sub-Committee at the first Planning Development Control Committee (PDC), following the officer's presentation and public participation. If agreed, Members would subsequently visit the site informally and the application would be determined at the next full PDC meeting.

4.3   This option negated the expense of determining the application at a local hall immediately after the informal site visit and ensured that the application would be heard in the more neutral surroundings of the Guildhall where, overall, the process was easier to manage.

4.4   However, the Group agreed that this presented practical difficulties regarding the consistency of the Committee's membership. The option presented problems to Members who were unable to attend all three meetings, as without this consistency, it was possible that the decision could be challenged if

Members had not been present at all the meetings and made the decision without hearing all the relevant material considerations.

4.5   Under the second option, a pre-meeting (prior to PDC) would be held, and those sites which it was considered a viewing was necessary would be identified. The viewing would be held on a reserved date before PDC and the application determined by full PDC as usual.

4.6   However, the Group discounted this option. Without a significant change, pre-meetings did not benefit from the photographs, plans and public deputations from which Members currently decided whether it was possible to determine the application without a site visit. Commonly, it is only after considering this information that Members are able to decide whether the topography of land or the proximity of the neighbouring properties (for example) was such that it was impossible to fully assess the application from the plans and photographs of the officer's presentation alone.

5.   <u>The recommended change to Viewing Sub-Committees</u>

5.1   Following debate, the Group agreed therefore to recommend retaining the current arrangements, subject to some minor changes.

5.2   The Group agreed that Viewing Sub-Committees should be convened in the current fashion, i.e. following the officer's presentation and public participation, a proposal (including reasons) for a Viewing Sub-Committee is made and seconded. If the majority of Members vote that the application be determined by a Viewing Sub Committee (giving their reasons), a date is set at that PDC Committee meeting for the Viewing Sub-Committee. On the day of Viewing Sub-Committee, Members of the Sub-Committee (accompanied by officers) only will visit the site (as under the current arrangements). Immediately afterwards, the application would be determined at a meeting held in a local hall (where available), or at the Guildhall if more convenient.

5.3   The change the Group agreed was that it was not necessary for the formal meeting of the Viewing Sub-Committee in the local hall/Guildhall to receive another full officer's presentation (although any relevant updates would be provided) or another round of public participation (which included Ward Member's deputations). The Group agreed that this was duplication and meant that Viewing Sub applications were treated unequally in comparison to other PDC items. The Group highlighted that the purpose for the Viewing Sub-Committee was to view the site, not to hear the presentation and public participation again.

5.4   As the Viewing Sub-Committee would not hear the presentation and public participation again, the Group emphasised the importance of maintaining a constant membership between the two meetings and the site visit. Following debate, it was recommended that the Viewing Sub-Committee membership should be agreed at the initial PDC meeting, from those Members and Deputy Members present at that meeting. This would prevent a Member (or Deputy Member) who did not attend the first meeting, attending the subsequent Viewing Sub-Committee and determining an application on which they had not heard or seen all the relevant information (had the application been determined

without a Viewing Sub-Committee being held, such an absent Member would not have been able to take in the decision in any event).

5.5   There was some consideration of the role which might be adopted by those Members who attended PDC and had voted against the Viewing Sub-Committee, believing that they were sufficiently informed to make a determination. The Group was advised that provided that there was no breach of the Code of Conduct or law, attendance at the Viewing Sub-Committee and at the subsequent determination would be in the discretion of the individual Member and that Member could not be disqualified from sitting as a member of the Viewing Sub-Committee.

6.   Telecommunications Sub-Committee

6.1   The Informal Group considered a number of options to alter the current procedures of Telecommunication Sub-Committees. These included requiring the public to register to speak and treating Telecommunication applications like any other planning application, with the same triggering mechanism requiring determination by Members.

6.2   The Group concluded that it would be impractical to precisely time and limit public speaking to those that had pre-registered, given the fact that many of the meetings were held on-site. However, Members were concerned that the procedures required strengthening, to help guide the Chairman's discretion on public participation at Telecommunication Sub-Committees.

6.3   It is therefore recommended that the procedure note be amended to permit public participation (after the officer's presentation) at the Chairman's discretion, but on a similar basis as the main PDC. Therefore, those wishing to make representations at the Telecommunications Sub-Committee should be encouraged to nominate a single speaker and that their deputation should be kept to less than three minutes. The applicant's deputation would be similarly guided to remain under 3 minutes, Ward Members for up to a maximum of five minutes each and Parish Council representatives limited to 3 minutes. The Chair should be briefed of the procedures and ensure that they are followed.

6.4   The Group recommended that telecommunication applications (above 3 metres) which, in the opinion of the Head of Planning Control (in consultation with the Chairman of the Telecommunications Sub-Committee) did not require a site visit be determined at the next available PDC. This can occur without any constitutional change, as PDC retains full powers to determine applications which are put before them.

6.5   Those applications which the Head of Planning Control (in consultation with the Chairman) considered did require a site visit would continue to be determined under the current arrangements on site.

6.6   Those applications which the Head of Planning Control (in consultation with the Chairman) consider likely to generate significant public interest, should be dealt with by a site visit by the Sub-Committee Members and officers only and then, immediately afterwards, be determined by a public meeting in a local hall. The procedure for this meeting would be the same as if the Sub-Committee determined the application on site. Therefore, at the Chairman's discretion,

residents and the applicant would be limited to 3 minutes, Parish Council representatives to 3 minutes and Ward Members to five minutes each.

6.7   These changes are procedural, and do not require any amendments to the Constitution.

7.   <u>The Role of Portfolio Holders at PDC</u>

7.1   In addition to the matters considered by the Informal Group, Members are asked to formalise the role of Portfolio Holders at PDC. It is suggested that, because of their role in representing the view of the Council and local community, they should be able to speak for up to five minutes each at the end of the slot reserved for Ward Members on applications relevant to their portfolio.

<u>OTHER CONSIDERATIONS</u>:

8.   <u>CORPORATE STRATEGY (RELEVANCE TO)</u>:

8.1   This report reflects the Council's key objective of being an effective and efficient Council.

9.   <u>RESOURCE IMPLICATIONS</u>:

9.1   There are no significant resource implications from the proposed changes.

<u>BACKGROUND DOCUMENTS</u>:

None

<u>APPENDICES</u>:

None