

Supplementary Papers for Audit and Governance Committee

Date: Thursday, 9 March 2023



6. **Review of the Constitution - Recommendations of the Constitution Review Working Group**

3 - 18

To consider the recommendations of the Constitution Review Working Group held on 1 March 2023.

Published: 02 March 2023

This page is intentionally left blank

AUDIT AND GOVERNANCE COMMITTEE



Report subject	Review of the Constitution - Recommendations of the Constitution Review Working Group
Meeting date	9 March 2023
Status	Public Report
Executive summary	<p>The report summarises and identifies recommendations from the Constitution Review Working Group together with various other possible options regarding the scheme of delegation relating to the Planning Committee as requested by the last meeting of the Audit and Governance Committee.</p> <p>Any recommendations arising from the Committee shall be referred to full Council for adoption.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>(a) consideration be given to the 3 options as identified in paragraphs 12 to 14 of this report as below, with the RECOMMENDATION of the Constitution Review Working Group being to proceed with Option 2; and</p> <p>(b) power be delegated to the Monitoring Officer to make consequential technical and formatting related updates and revisions to the Constitution that she considers necessary to facilitate the decision above.</p>
Reason for recommendations	To make appropriate updates and revisions to the Constitution following consideration by the Working Group.
Portfolio Holder(s):	Not applicable
Corporate Director	Sam Fox (Interim Director of Planning and Destination)
Report Authors	<p>The report draws together the conclusions of the Constitution Review Working Group meeting held on 1 March 2023</p> <p>Simon Gould (Development Management Manager) Robert Firth (Senior Solicitor) Richard Jones (Head of Democratic Services)</p>
Wards	Not applicable
Classification	For Recommendation

Background

1. On 16 February 2023 Audit and Governance Committee considered various proposed changes to the Constitution. Recommendation (i) of that report was *"the amendments to Part 3A, (Responsibility for Functions - Planning Committee) and Part 4A (Meeting Procedure Rules - Voting), as set out in paragraph 57 to this report, be approved"*.
2. Following discussion on that item, it was resolved not to support the recommendation at that time but rather to have the matter brought back to the Committee, if possible on 9 March 2023. The purpose behind this decision was to allow officers and the Constitution Review Working Group time to reflect on various points raised during the meeting and to the extent considered appropriate provide further clarity and / or possible compromise solutions.
3. This report captures matters arising from that reflection period.
4. Attached as appendix 1 to this report is an extract from the original report that specifically related to recommendation (i) (paragraphs 54 to 57 inclusive). As identified in the original report, proposed changes to the Constitution are shown with tracked changes (in red and red outline boxes) in paragraph 57, and as appendix 2 the alternative option recommended by the Working Group.

Outcomes of reflection / further explanation

5. Paragraph 56 of the original report summarised and provided some explanation relating to the various proposed changes. These remain relevant.
6. Having reviewed the debate of the Audit and Governance Committee meeting on 16 February 2023, it is believed that the areas for concern relating to the proposed changes in recommendation (i) focused on two specific aspects.
 - The proposed removal of the current representation referral process which, if the threshold were met, would compel a planning related application to be considered by Planning Committee if the intended officer decision was contrary to 20 or more relevant representations relating to that application; and
 - the mechanism relating to the ability of a councillor to call-in an application to Planning Committee but specifically within that, the time period within which a councillor can exercise that call-in.
7. The remainder of this report further explores those two points and identifies the outcome of consideration of them by the Constitution Review Working Group. Set out in paragraphs 12 to 14 are 3 options resulting from this process.

Representation Referral Process

8. In advance of the Constitution Review Working Group the following observations were identified in relation to points relevant to the 20 representation referral process and were considered by the Working Group.
 - Legally, the mere number of representations for or against a planning application is generally not a consideration relevant to whether such an application should be approved or refused. What is of potential relevance is the reasons given within or for those representations. An identified concern therefore is that the number of representations being received is itself not meaningful and the 20 number is simply arbitrary.
 - The focus of the Planning Committee should be on determining applications of genuine importance. In 2022, the Planning Committee was required to hold 5 special meetings in addition to its normal scheduled programme to accommodate all the applications referred to it. Of the applications considered at

all those meetings, circa 23% were identified on the report as being referred to Planning Committee as solely being due to the number of representations received. It is fair to say that it is not possible to know for certain how many of those applications would have come to Planning Committee via another referral route had the 20 representation process not applied. However, only 1 of those matters resulted in a decision contrary to the officer recommendation; that application now forms part of a re-application and the nature of the application suggests it might well have come before Planning Committee via another route in any event. A reduction in items going to Planning Committee would have a potential beneficial impact on the number of actual meetings (including special meetings) that otherwise would need to be held to accommodate them.

- It is unfortunately the case that a mechanism such as a 20 representation process is open to potential manipulation that might, for example, be used to seek to avoid an intended officer delegated decision. An inevitable consequence if this was to occur would be the burdening of the Planning Committee with applications that it need not otherwise have had to consider. Indeed, there is currently nothing that prevents representations from persons living outside a ward impacted by an application or indeed any part of the BCP Council area from counting towards the threshold figure and initiating a referral. A system that sought to limit relevant representations to a particular ward or area might in theory be possible; however, in practical terms, ensuring compliance with it would be administratively burdensome and in reality would probably prove exceptionally hard to police.
 - The Councillor Call-in referral process provides an alternative mechanism by which an item can go to Planning Committee for consideration. This mechanism is used regularly by councillors. Its existence can be seen to help encourage constituents to liaise with their local ward councillors in relation to planning applications. In that respect, it also potentially enables ward councillors to better understand the views of voters and enables ward councillors to play and be seen to play an active and important role in the development of their area. By providing an alternative to the call-in route, the 20 representation referral process can reduce the need of constituents to engage with their ward councillors and in that respect dilutes an important role that those councillors can otherwise provide. Inevitably, there may be occasions where one or more ward councillors might find it difficult themselves to submit a call-in request but in such cases there is nothing to prevent those councillors requesting a colleague to do so on their behalf or indeed liaising with a relevant senior Planning Officer to express their views that the application would be best dealt with by Committee. Any process that encourages constructive dialogue between councillors and relevant planning officers has significant beneficial potential both in terms of developing trust and understanding.
 - It is certainly possible to suggest that a 20 representation referral process is a valid tool in helping to empower the public to engage in planning matters. However, it is not clear why the Councillor Call-in process could not be seen as achieving the same objective whilst also providing the added potential benefits identified above.
 - There is a balance to be struck between perceived benefits and harms associated with the 20 representation referral process.
9. The Working Group considered the issues raised and concluded that on balance the 20 representation referral process should be retained but with a geographical qualifier being added to require representations to be from third parties residing

within the BCP Council area (reinstatement of proposed change 2.2.8 but with amendment).

Councillor Call-in

10. In advance of the Constitutional Review Working Group the following observations were identified as warranting highlight in relation to points relevant to the Councillor Call-In process and associated timeline. These were also considered by the Working Group.
 - As a matter of fact, the existing provisions in the constitution already impose requirements relevant to the making of a call-in request including one that imposes a timeline. Existing paragraph 2.3.4 expressly requires a councillor to have first discussed an application with the planning case officer before submitting a referral form and that this should occur within the initial planning application notification period. During the Audit and Governance Committee meeting, concerns were expressed with problems that can be experienced in contacting relevant officers. The proposed changes entirely remove the need for a councillor to have first spoken to the relevant case officer and to that extent therefore both simplify the process and remove such contact difficulties. Indeed, the changes extend the scope to submit a call-in form to include further representation periods that might arise. In that respect, the changes increase opportunity to make use of the call-in process that currently does not exist.
 - The existing provisions expressly require that following a discussion with the case officer a request form has to be submitted (existing paragraph 2.3.1). However, the process is silent on a time to do this. The procedure makes clear that if there is no contact by a councillor within the initial notification period then the application can be determined by officers (existing paragraph 2.3.6). Unfortunately, it does not explain what happens in the event of an initial contact being made but no call-in form subsequently being submitted. To this extent therefore, it creates uncertainty as to how that application should be determined. Legally that is problematic and needs to be clearly addressed. The proposed changes do this by seeking to identify a precise time by when a call-in request must be submitted failing which the opportunity to exercise the referral falls away.
 - Concern was expressed at the Audit and Governance Committee meeting regarding the proposed cut-off date by when a call-in request must be submitted, and the question raised whether such a cut-off date is even necessary. Three points in particular are considered relevant to this. First, as identified above, such a cut-off date already exists, the difference being that it currently relates to the need to first contact an officer as opposed to submitting the actual referral form. The proposed changes make it easier to exercise the call-in in that respect. Second, to help minimise legal and administrative issues, having a clear cut-off date after which power is given to officers to proceed with a determination is essential. In simple terms, it is necessary to seek to ensure that there is absolute clarity as to when officers can exercise delegated powers to determine an application. Third, all planning applications have statutory time periods within which an application falls to be determined. A failure to determine an application within a relevant time can not only give rise to a potential appeal but impacts on the Planning Unit's performance figures against which it is assessed by central government and which can result in government intervention. In the majority of cases, the statutory time identified for determining a planning application is 8 weeks. The proposed changes enable a call-in to be made within the representation period identified by the site notice. It is understood that the placing of a site notice would normally occur approximately one to two weeks

from validation of the application (but sometimes might be later), and would generally be for 24 calendar days (to allow for bank holidays). Following the expiry of such a representation period the case officer needs to progress all the usual administrative and professional activities involved in determining an application including producing a report/decision. Inevitably, the work associated with taking an application to Planning Committee is more time consuming than a delegated decision. There is obvious potential benefit in seeking to allow councillors maximum opportunity to exercise the call-in powers available to them. Unfortunately, the scope to do this is limited if the issues identified above are to be avoided and without placing potentially material additional burdens on existing officer workloads.

- As with the 20 representation referral process, a balance has to be struck in relation to the councillor call-in process. The absence of any timeline by when a call-in must be made would be exceptionally problematic, both legally and administratively. The proposed changes do seek to address some of the challenges that are identified as existing with the existing system and to introduce a degree of extra flexibility in submitting a call-in request where the opportunity for further representation occurs. The timelines as recommended in the proposed changes are considered to strike a reasonable compromise having regard to relevant statutory timelines for determining applications and the obvious desirability of enabling officers to progress the determination of applications expeditiously whilst avoiding potentially abortive additional work.
11. Having considered the draft changes to the councillor call-in process, the Working Group supported the changes to the process subject to the deadline for submitting the referral form being extended to 4.00pm seven calendar days after the expiry of any initial or subsequent representation period as identified on the relevant posted site notice (further amendment to proposed change paragraph 2.5.2.(b)). In addition, the Working Group also supported additional information to be provided on notification letters and the web site regarding councillor submission deadline dates but recognised these were not Constitution matters and required a review of operational and system capabilities.

Options

12. Option 1 – Support the proposed changes as presented to the Audit and Governance Committee held on 16 February 2023, as set out in Appendix 1 to this report.
13. Option 2 – Support the revised changes as recommended by the Constitution Review Working Group to retain the 20 representations referral process with a geographical qualifier and the proposed changes to the councillor call-in process, subject to an extended deadline, as set out in Appendix 2 to this report.
14. Option 3 – At this stage, to not progress changes to either the 20 representations referral process or councillor call-in process but retain the existing arrangements to allow time for officers to more fully assess and report on implications arising from the discussions at Audit and Governance Committee and the recommendations of the Constitution Review Working Group.

Summary of financial implications

15. At this stage, there are no detailed financial implications arising from this report and the recommendations of this report. However:
- in relation to Option 1 the suggested removal of the 20 representation referral process may help reduce the number of special Planning Committees that might otherwise need to be held as a result of maintaining the status quo.

- in relation to Option 2 there may be resource implications in order to properly facilitate the further changes; however, due to the limited time available there currently has been insufficient opportunity to meaningfully assess this.

Summary of legal implications

16. The Constitution of the BCP Council is a living document that requires regular review and updating. This is necessary for purposes that include reflecting the development of the legal framework within which it operates and generally helps secure its continuous improvement. The proposed changes in option 1 seek to address various issues identified within the current Planning Committee delegation processes which in part will help to reduce areas of potential legal uncertainty relating to it. Identified in this report are various concerns in relation to option 2.

Summary of human resources implications

17. There are no human resource implications arising from this report.

Summary of sustainability impact

18. There are no sustainability implications arising from this report.

Summary of public health implications

19. There are no public health implications arising from this report.

Summary of equality implications

20. An Equality Impact Assessment was completed which was informed by conversations with relevant officers and the Working Group in relation to each of the proposed changes to the Constitution previously reported. There were no new issues raised at the Audit and Governance Committee relating to equality matters and therefore the previous assessment remains unchanged.

Summary of risk assessment

21. The Constitution is a legally required document which prescribes the procedural and democratic arrangements for the proper governance of the Council.

Background papers

Published works

Appendices

Appendix 1 – Extract of previous report relating to this matter and the proposed changes to the Constitution shown with track changes.

Option 1 - Extract from the Report to Audit and Governance Committee held on 16 February 2023

Issue 8 – Planning Committee – Changes to and associated with delegations to the Planning Committee

54. The Working Group received a request to consider changes to the scheme of delegation to the Planning Committee as set out in Part 3A (Responsibility for Functions) [pages 3-7 to 3-9]. The Chair of Planning Committee was also in attendance at the meeting.
55. The suggested changes to the Constitution seek to address issues identified by officers and raised by Councillors in relation to delegations to the Planning Committee. The key focus of the changes is to provisions relating to the Councillor Call-In and the scope for matters being referred to Planning Committee resulting from 20 representations. All proposed changes have been discussed with the Chairman of Planning Committee.
56. A brief summary of what might be regarded as the more significant changes is as follows:
 - Proposed new paragraph 2.4 expressly recognises that any planning matter normally delegated to Officers can be taken to the Planning Committee for a decision where this is considered appropriate. A similar provision is proposed for Licensing Committee. This has the potential to be of significant value, enabling members of the Planning Committee to have the opportunity to engage with a wider range of case specific matters that are identified as potentially benefitting from Councillor input. This is similar to the request under 1(e) above which relates to the Licensing Committee delegations.
 - The Councillor Call-In process is simplified by removing the specified need from the existing protocol for a Councillor to first discuss the intended referral with an officer (although this would not prevent them doing so if they wanted to). However, on the back of Councillor input, two key changes are suggested to the process. First, the Constitution will provide that a Councillor sitting on the Planning Committee cannot vote on an item that they call in but (subject to the Councillor Code of Conduct), can still speak to the matter in the same way as any other Councillor in accordance with the relevant speaking protocol (see proposed change to Meeting Procedure Rules). Second, the various actions that must be carried out by a Councillor in submitting a request for Call-In, including in the relevant request form, are more clearly set out. This now includes giving express confirmation in the submitted form that the Councillor has sought to notify all the ward Councillors in whose ward the application falls that they are making a call in request (see existing paragraphs 2.3.1 – 2.3.5 and new proposed paragraphs 2.5.1 and 2.5.2).
 - In addition to the changes above, the proposed re-wording further consolidates other various existing provisions relating to the Councillor Call-In provisions (see existing paragraphs 2.2.9 and 2.3.6. and generally proposed new paragraph 2.6). This consolidation is not intended to materially change any of the existing provisions.
 - The existing provision for the referral to committee for applications with 20 or more representations is removed (existing paragraph 2.2.8). It is anticipated that, coupled with the proposed changes to the Councillor Call-In process, that these changes may help encourage constituents to interact with their ward councillors and give greater prominence to the role that Councillors can have in helping develop their area.

57. The changes requested are as follows:

2. Planning Committee

2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the Planning Committee.

2.2. The Planning Committee has responsibility to determine the following:

2.2.1. applications submitted by or on behalf of a Councillor or direct family (spouse or civil partner) of a Councillor for any property or land in which they have a financial interest;

2.2.2. applications submitted by or on behalf of a current Officer:
a) working within the planning section; or
b) at Tier 3 level and above; or
c) direct family (spouse or civil partner) of Officers identified under 2.2.2 a) and b); or
for any property or land in which they have a financial interest;

2.2.3. applications referred to the Committee by the relevant senior planning officer for one or more of the following reasons:

- a) applications where there are material planning issues that have not previously been considered within the Council's area;
- b) applications where a national or local planning policy is being tested for the first time within the Council's area;
- c) applications which have a significant impact on a wide number of businesses and / or people;
- d) applications which have a finely balanced Officer recommendation;
- e) applications by or on behalf of a planning Officer who has recently left the organisation or one of the preceding councils; and/or
- f) applications that the Head of Planning considers are potentially contentious and raise material planning issues, or would affect the wider public interest;

2.2.4. applications where the Council is the applicant or landowner for major development proposals as defined in the Development Management Procedures Order;

2.2.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;

2.2.6. applications which require an Environmental Impact Assessment except where the relevant senior planning officer considers that approval of the application would not lead to significant environmental impacts;

2.2.7. an application which a Councillor requests should be referred to the Planning Committee ("Councillor Call-In") provided that all of the following criteria are met:

- a) in the opinion of the Councillor making the request, the application is (i) potentially contentious; and (ii) raises material planning issues that affect their ward or would affect the wider public interest; and

- b) the ~~request Councillor has submitted the referral to planning committee request in~~ accordance with the local planning authority's agreed call-in protocol (as set out at paragraphs ~~2.3-5 and 2.6~~ to this Part 3A); ~~and~~
 - c) the Application is not one of the following:
 - i. Permission in Principle (PIPs)
 - ii. Lawful Development Certificates (LDC) (existing or proposed)
 - iii. Prior Approvals and Prior Notifications
 - iv. non-material amendments
 - v. applications other than "major", "minor" and "householder".
- ~~and~~

~~2.2.8. applications where there have been 20 or more representations received within the initial or any subsequent notification period, based on material planning issues, from separate addresses that are contrary to the recommendation of the planning officer. The Head of Planning has the authority to make the decision as to whether the contrary representations are based on material planning issues.~~

~~2.2.9. With reference to Councillor call in powers at 2.2.7 above, a Councillor may make a request that an application be considered by Planning Committee conditional upon a recommendation to grant or refuse, or may make an unconditional request. A Councillor may also withdraw a request at any time up to seven calendar days before publication of the relevant Committee agenda. Any request should be made in writing on the form provided for the purpose.~~

2.3. The Planning Committee has power to receive and provide comment on presentations relating to pre-application planning proposals that the relevant senior planning officer considers appropriate having regard to the Council's Local Code of Best Practice relating to Planning Matters and any extant guidelines agreed by the Planning Committee.

2.4 In addition to the powers identified above, the Planning Committee has the power to consider and determine any matter arising in relation to any Town and Country Planning Legislation where that matter has been expressly referred to the Planning Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Officer Scheme of Delegations.

2.5 The requirements of the call-in protocol referred to at 2.2.7 above is-are as follows:

~~2.5.1. a formal referral request must be submitted on the Council Planning Committee referral form;~~

~~2.3.2. the request is submitted on the latest Planning Committee Referral Form all produced for that purpose ("Planning Committee Referral Form") and all parts of the submitted planning-Planning committee-Committee referral-Referral request form Form must have been completed. This includes setting out:~~

~~-for the request to be considered as valid and compliant with the provisions set out in paragraph 2.2.7 of Part 3A of the Constitution;a) why the application is considered to be potentially contentious;~~

~~b)2.3.3. the form must set out planning the material planning reasons that the Councillor considers are material to the application that justify the referral;~~

~~c) why it is considered that the application will affect the ward of the Councillor making the referral or why the Councillor considers that the application~~

- would affect the wider public interest for the referral; and that warrant the application being considered by Planning Committee;
- d) confirmation that the Councillor, in advance of submitting the Planning Committee Referral Form, has used their reasonable endeavours to notify all Councillors in whose ward the application site (of the application) is situated in whole or part that they are making a call in request; and

~~2.3.4. the ward Councillor must have first discussed the planning application with the planning case officer before submitting a Planning Committee referral form. This discussion should take place within the initial planning application notification period. In these discussions, and prior to submitting the form, the ward Councillor must advise the officer whether they are considering submitting a Planning Committee referral request form so the officer can update the ward Councillor on progress before a recommendation is made.~~

2.5.2. ~~to ensure resilience that the planning committee referral requests are formally received by the case officers, request forms should~~the completed Planning Committee Referral Form:

- a) has been submitted by the Councillor making the request by email and received in the inbox of ~~be submitted by email to~~ both the case officer and the relevant office inbox as follows:
- ai) an application where the application site is wholly or partly in the former Bournemouth Council area -
planning.bournemouth@bcpcouncil.gov.uk;
 - bii) an application where the application site is wholly or partly in the former Christchurch Council area -
planning.christchurch@bcpcouncil.gov.uk;
 - eiij) an application where the application site is wholly or partly in the former Poole Council area planning.poole@bcpcouncil.gov.uk,
or any other inbox notified to Councillors for this specific purpose (N.B. if an application crosses more than one former Council area then the request must be sent to both relevant office email addresses); and
- b) is received no later than 4pm of the last day of any initial or subsequent notification period as identified on the posted planning site notice relating to that application or any other related notification period provided by the Council if no planning site notice is posted.

2.6 With regard to the Councillor Call-In:

- a) a Councillor may make the request that the application be called in conditional upon the case officer recommendation being to either grant or refuse or in the alternative may make the request unconditional;
- a) a request may be withdrawn by the Councillor by sending an email notification to both the case officer and the relevant office inbox (see paragraph 2.5.2 above), that is received in both inboxes no later than 7 calendar days prior to the agenda publication date of the relevant Planning Committee meeting; and
- b)
- c) in the event of any of the requirements relating to the Councillor Call-In not being met, the Councillor Call-In will not have been validly made and Councillors should be aware that a decision may (subject to the exercise of the option in paragraph 2.4 above) at any time thereafter be made by officers under delegated powers.

~~2.3.6. — Once the notification period has expired and the officer has not had any contact from a ward Councillor in respect of a potential planning committee referral, Councillors are to be aware that officers are able to make decisions on planning applications under delegated powers in accordance with the Council scheme of delegation.~~

Changes to Part 4D – Meeting Procedure Rules

Add new paragraph at the end of Section 18 – Voting

18.9 Where an application falls to be determined by Planning Committee that is subject to the exercise of a Call-in power by a Councillor under section 2 of Part 3A of the Constitution, the Councillor shall not be permitted to vote on that item but subject to any requirements of the Member Code of Conduct, may speak in relation to it as a Councillor to the extent as provided for in any protocol adopted by Planning Committee.

**Option 2 - Proposed Changes arising from the Constitution Review Working Group
held on 1 March 2023**

Changes to Part 3A

2. Planning Committee

- 2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the Planning Committee.
- 2.2. The Planning Committee has responsibility to determine the following:
 - 2.2.1. applications submitted by or on behalf of a Councillor or direct family (spouse or civil partner) of a Councillor for any property or land in which they have a financial interest;
 - 2.2.2. applications submitted by or on behalf of a current Officer:
 - a) working within the planning section; or
 - b) at Tier 3 level and above; or
 - c) direct family (spouse or civil partner) of Officers identified under 2.2.2 a) and b); or
 for any property or land in which they have a financial interest;
 - 2.2.3. applications referred to the Committee by the relevant senior planning officer for one or more of the following reasons:
 - a) applications where there are material planning issues that have not previously been considered within the Council's area;
 - b) applications where a national or local planning policy is being tested for the first time within the Council's area;
 - c) applications which have a significant impact on a wide number of businesses and / or people;
 - d) applications which have a finely balanced Officer recommendation;
 - e) applications by or on behalf of a planning Officer who has recently left the organisation or one of the preceding councils; and/or
 - f) applications that the Head of Planning considers are potentially contentious and raise material planning issues, or would affect the wider public interest;
 - 2.2.4. applications where the Council is the applicant or landowner for major development proposals as defined in the Development Management Procedures Order;
 - 2.2.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;
 - 2.2.6. applications which require an Environmental Impact Assessment except where the relevant senior planning officer considers that approval of the application would not lead to significant environmental impacts;
 - 2.2.7. an application which a Councillor requests should be referred to the Planning Committee ("Councillor Call-In") provided that all of the following criteria are met:
 - a) in the opinion of the Councillor making the request, the application is (i) potentially contentious; and (ii) raises material planning issues that affect their ward or would affect the wider public interest; and

- b) the ~~request Councillor has submitted the referral to planning committee request in~~ accordance with the local planning authority's agreed call-in protocol (as set out at paragraphs ~~2.3-5 and 2.6~~ to this Part 3A); ~~and~~
- c) the Application is not one of the following:
 - i. Permission in Principle (PiPs)
 - ii. Lawful Development Certificates (LDC) (existing or proposed)
 - iii. Prior Approvals and Prior Notifications
 - iv. non-material amendments
 - v. applications other than "major", "minor" and "householder".

2.2.8. applications where there have been 20 or more representations from third parties residing within the BCP Council area received within the initial or any subsequent notification period, based on material planning issues, from separate addresses that are contrary to the recommendation of the planning officer. The Head of Planning has the authority to make the decision as to whether the contrary representations are based on material planning issues.

~~2.2.9. With reference to Councillor call in powers at 2.2.7 above, a Councillor may make a request that an application be considered by Planning Committee conditional upon a recommendation to grant or refuse, or may make an unconditional request. A Councillor may also withdraw a request at any time up to seven calendar days before publication of the relevant Committee agenda. Any request should be made in writing on the form provided for the purpose.~~

2.3. The Planning Committee has power to receive and provide comment on presentations relating to pre-application planning proposals that the relevant senior planning officer considers appropriate having regard to the Council's Local Code of Best Practice relating to Planning Matters and any extant guidelines agreed by the Planning Committee.

2.4 In addition to the powers identified above, the Planning Committee has the power to consider and determine any matter arising in relation to any Town and Country Planning Legislation where that matter has been expressly referred to the Planning Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Officer Scheme of Delegations.

2.5 The requirements of the call-in protocol referred to at 2.2.7 above ~~is~~ are as follows:

~~2.5.1. a formal referral request must be submitted on the Council Planning Committee referral form;~~

~~2.3.2. the request is submitted on the latest Planning Committee Referral Form all produced for that purpose ("Planning Committee Referral Form") and all parts of the submitted planning Planning committee Committee referral Referral request form Form must have been completed. This includes setting out:~~

~~for the request to be considered as valid and compliant with the provisions set out in paragraph 2.2.7 of Part 3A of the Constitution; a) why the application is considered to be potentially contentious;~~

~~b) 2.3.3. the form must set out planning the material planning reasons that the Councillor considers are material to the application that justify the referral;~~

~~c) why it is considered that the application will affect the ward of the Councillor making the referral or why the Councillor considers that the application~~

- ~~would affect the wider public interest for the referral; and that warrant the application being considered by Planning Committee;~~
- d) confirmation that the Councillor, in advance of submitting the Planning Committee Referral Form, has used their reasonable endeavours to notify all Councillors in whose ward the application site (of the application) is situated in whole or part that they are making a call in request; and

~~2.3.4. the ward Councillor must have first discussed the planning application with the planning case officer before submitting a Planning Committee referral form. This discussion should take place within the initial planning application notification period. In these discussions, and prior to submitting the form, the ward Councillor must advise the officer whether they are considering submitting a Planning Committee referral request form so the officer can update the ward Councillor on progress before a recommendation is made.~~

2.5.2. ~~to ensure resilience that the planning committee referral requests are formally received by the case officers, request forms should~~the completed Planning Committee Referral Form:

- a) has been submitted by the Councillor making the request by email and received in the inbox of ~~be submitted by email to~~ both the case officer and the relevant office inbox as follows:
- ai) an application where the application site is wholly or partly in the former Bournemouth Council area - planning.bournemouth@bcpcouncil.gov.uk;
 - bi) an application where the application site is wholly or partly in the former Christchurch Council area - planning.christchurch@bcpcouncil.gov.uk;
 - ciii) an application where the application site is wholly or partly in the former Poole Council area planning.poole@bcpcouncil.gov.uk, or any other inbox notified to Councillors for this specific purpose (N.B. if an application crosses more than one former Council area then the request must be sent to both relevant office email addresses); and
- b) is received no later than 4pm seven calendar days after the ~~of the last day of any~~ initial or subsequent notification period as identified on the posted planning site notice relating to that application or any other related notification period provided by the Council if no planning site notice is posted.

2.6 With regard to the Councillor Call-In:

- a) a Councillor may make the request that the application be called in conditional upon the case officer recommendation being to either grant or refuse or in the alternative may make the request unconditional;
- a) a request may be withdrawn by the Councillor by sending an email notification to both the case officer and the relevant office inbox (see paragraph 2.5.2 above), that is received in both inboxes no later than 7 calendar days prior to the agenda publication date of the relevant Planning Committee meeting; and
- b)
- c) in the event of any of the requirements relating to the Councillor Call-In not being met, the Councillor Call-In will not have been validly made and Councillors should be aware that a decision may (subject to the exercise of the option in

paragraph 2.4 above) at any time thereafter be made by officers under delegated powers.

~~2.3.6. Once the notification period has expired and the officer has not had any contact from a ward Councillor in respect of a potential planning committee referral, Councillors are to be aware that officers are able to make decisions on planning applications under delegated powers in accordance with the Council scheme of delegation.~~

Changes to Part 4D – Meeting Procedure Rules

Add new paragraph at the end of Section 18 – Voting

18.9 Where an application falls to be determined by Planning Committee that is subject to the exercise of a Call-in power by a Councillor under section 2 of Part 3A of the Constitution, the Councillor shall not be permitted to vote on that item but subject to any requirements of the Member Code of Conduct, may speak in relation to it as a Councillor to the extent as provided for in any protocol adopted by Planning Committee.

This page is intentionally left blank