

Planning applications submitted by the Council – Planning Committee – Thursday, 7th October 2021

Report of: Head of Legal Services and Monitoring Officer

Purpose: For recommendation to Full Council

Publication status: Open

Wards affected: All

Executive summary

This report enables the Committee to consider whether its delegated powers should be amended to enable it to resolve planning applications submitted by the Council.

At present, the determination of such applications is reserved for Full Council, based on recommendations from this Committee. This long-standing arrangement dates back to when the Council was formed.

This report supports the Council's priority of: "*Building a better Council*"

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Recommendation to Council

That the Committee's scheme of delegation be amended (as shown below) to enable it to resolve all planning applications referred to it, including those where the Council is the applicant:

“TO RECOMMEND

- ~~(i)~~ Applications for planning permission by the Council itself.
- ~~(ii)~~ (i) Changes to the Committee's Terms of Reference.
- ~~(iii)~~ (ii) Other matters under the Committee's jurisdiction which, by virtue of statutory provision, must be determined by full Council.

TO RESOLVE

- (i) Determination of **all** planning and related applications and enforcement action referred to the Committee by any Member of the Council and/or the Chief Planning Officer.
- (ii) Guidelines under which the Committee shall determine its level of involvement in individual planning, building control and enforcement decisions.
- (iii) Confirmation (or modification) of Tree Preservation Orders where there are unresolved objections.”

Reason for the Recommendation

The requirement for Full Council to ratify planning applications is now deemed to be impracticable and, subject to any views Members may have to the contrary, should cease.

Introduction and background

1. As far as this Council's governance arrangements are concerned, it has always been the case that its own planning applications have to be determined by Full Council.
2. Until recently, when these situations have arisen, the Full Council ratification stage has been regarded as a formality, akin to a rubber stamping exercise.

3. However, the previous two Council applications to be considered by the Committee have prompted concerns about the rationale for the process. For example, the following arrangements apply to Planning Committee meetings which, hitherto, have not been replicated at Full Council when planning related recommendations are considered:
 - (i) the Committee members sit in a quasi-judicial capacity and its members are required to undergo training before they can participate in meetings;
 - (ii) planning officers give detailed presentations;
 - (iii) applicants/agents, objectors and Parish Council representatives can make oral representations.
4. A recent canvass of neighbouring councils has not identified any other Surrey Borough or District which adopts the same practice as this Council (at the time of writing, 8 of the other 10 councils have confirmed that their planning committees are empowered to determine all planning applications, regardless of the whether the council is the applicant).
5. The current approach exposes risks associated with the Council overturning a recommendation from this Committee. Such decisions would have to be based on sound planning grounds which could be defended on appeal and the inconsistencies highlighted in paragraph 3 above raises the prospect of flawed decision making.
6. The only possible scenario whereby Full Council could base a decision on non-planning grounds is if it chose to:
 - withdraw an application (for whatever reason) in connection with a recommendation from the Committee to approve; or
 - vote against such a recommendation

... in which case the Council's planning application in question would fall as distinct from being refused.
7. A higher risk scenario would be presented if Full Council decided to overturn recommendation to refuse.
8. While some of the examples above are hypothetical, the fact remains that the current delegation arrangements assume that recommendations from the Planning Committee will go through 'on the nod' at Full Council. This assumption should no longer be relied upon and the most logical approach would be for the Committee to be empowered to determine all planning applications. It would seem impracticable for Full Council to act as the local Planning Authority, which is what the current delegation arrangements potentially require.

Key implications

Comments of the Head of Legal Services

The recommendations put forward in this report have been considered by different Officers and there is no legal impediment should Members be minded to revise the Committee's scheme of delegation.

Equality

This report contains no proposals that would disadvantage any particular minority groups.

Climate change

This report contains no proposals that would impact on the Council's commitment to addressing climate change.

Appendices

None

Background papers

None