

# Waverley Borough Council

Report to: Standards & General Purposes Committee

Date: 3 July 2023

Ward(s) affected: N/A

Report of Director: Transformation & Governance/Place

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Report Status: Open

## **Proposed revisions to the Scheme of Delegation to Officers, and Councillors' Planning Code of Good Conduct**

### **1. Executive Summary**

- 1.1 The Standards and General Purposes Committee has been asked to consider proposed amendments to the Council's current constitution

in relation to Scheme of Delegation to the Joint Executive Head of Development Management

Revised Planning Committee Procedure Rules, Revised Councillors' Planning Code of Good Practice and agree to a consultation on matters to be included in a Memorandum of Understanding between planning officers and Councillors.

## **2. Recommendation to Committee**

The Standards & General Purposes Committee is asked to recommend that the Council approves:

- 2.1. The proposed revised Scheme of Delegation to the Joint Executive Head of Planning Development, attached at Appendix 1A.
- 2.2. The proposed revised Planning Committee Procedure Rules, attached at Appendix 2.
- 2.3. The proposed revised Councillors' Planning Code of Good Practice, attached at Appendix 3A.
- 2.4. That a consultation with Councillors is undertaken to inform the content of a Memorandum of Understanding between planning officers and Councillors.

## **3. Reason(s) for Recommendation:**

- 3.1 The proposed revised Scheme of Delegation to the Joint Executive Head of Planning Development clarifies the delegated authority to the Joint Executive Head of Planning Development, and the exceptions to that delegated authority. It includes two new exceptions relating to householder applications and major or minor applications that generate a high level of representations. The revised Scheme of Delegation aims to ensure that the Planning Committee's time is spent on considering applications of strategic importance to the local authority.
- 3.2 The proposed revised Planning Committee Procedure Rules clarify the speaking arrangements at the Planning Committee for councillors

who have declared an interest in a planning application, or who are ward councillors speaking in relation to a planning application. The revisions also clarify the arrangements for members of the Planning Committee to propose and debate a motion that may or may not be in line with the planning officers' recommendation. This follows advice from the Planning Advisory Service, as set out in the 2018 Peer Review Report.

- 3.3 The proposed revised Councillors' Planning Code of Good Practice updates the existing Councillors' Planning Code of Good Practice which was last revised in October 2016. The revisions reflect updated Planning Advisory Service guidance (2019), Waverley's adoption of the Model Councillor Code of Conduct, and Waverley's recently revised Planning Committee arrangements.

#### **4. Exemption from publication**

None.

#### **5. Purpose of Report**

- 5.1 The report presents revisions to documents within the Council's Constitution that describe the governance arrangements for determining planning applications with the aim of improving the efficiency of decision-making by officers and the Planning Committee.

#### **6. Strategic Priorities**

- 6.1 The proposals support the following strategic priorities:
- Local, open, participative government
  - Effective strategic planning and development management to meet the needs of our communities

## **7. Background**

7.1. The Local Government Association Planning Advisory Service provided Waverley with a report on the Review of performance in response to non-major applications in June 2022. The report included a series of recommendations. A link to the report is provided at 17.3 below however, the specific recommendations are set out below:

R1 Ensure all staff prioritise the provision of progress updates using extensions of time as the primary method (wherever necessary) Extensions of time should be requested in all cases where the application will not be able to be determined within the statutory target without exception

R2 Identify dedicated time when officers will be unavailable to take phone calls and e-mails each week and use voicemail and customer services as a means of controlling interruptions and boosting productivity

R3 Prepare a simple customer protocol to explain this revised more customer focused approach to service delivery supported by customer service training

R4 Address backlog of applications through use of temporary staff or outsourcing

R5 Review scheme of delegation to reduce the number of Planning Committee meetings held

R6 Review the trigger mechanism for Member Site Visits

R7 Review validation checklist to restrict information to that which is essential only. The Checklist then needs to be applied rigorously

R8 Taking a more proportionate approach to consultation

R9 Review format of reports and process for the issue of decisions

- R10 Review impact of team restructure in order to mitigate any negative impacts that may have arisen
- 7.2 The Council was invited at its annual meeting on 23 May 2023 to establish Committees for the municipal year 2023/24 and determine the size of committee and restrictions on membership, which it did.
  - 7.3 However, the Standards and General Purposes Committee was asked to review the establishment of the Committees, their size and terms of reference and to make any recommendation for change, as appropriate, to Council.
  - 7.4 The Standards and General Purposes Committee has within its purpose “to monitor and review the Council’s constitution”.
  - 7.5 In light of this and recommendation 5 of the PAS report the Standards & General Purposes Committee was asked to consider a report on Proposed changes to the size, composition and terms of reference of Waverley Borough Council's committees at its meeting on 7 June 2023.
  - 7.6 The Committee recommended to Full Council at its meeting on 7 June 2023 that the Western and Eastern Committee should be replaced by a single Planning Committee for a 1 year trial period. Full Council requested officers to review the scheme of delegation in accordance with recommendation 5 of the PAS report to reduce the number of non-major applications being considered by Planning Committee.
  - 7.7 Officers have reviewed the scheme of delegation to the Joint Executive Head of Development Management with the proposed revised scheme attached as Appendix 1A to this report. For comparison Appendix 1C contains the Existing Scheme of Delegation to the Joint Executive Head of Development Management
  - 7.8 Appendix 2 contains the Revised Planning Committee Procedure Rules showing tracked changes which clarify speaking arrangements for councillors with interests, speaking arrangements for ward councillors who are members of the Planning Committee, and revised

arrangements for the committee considering a motion contrary to the officers' recommendation.

- 7.9 The Councillors' Planning Code of Good Practice has also been updated to reflect revised arrangements as well as updated PAS guidance. The revised Codes is contained at Appendix 3A with the existing Councillors' Planning Code of Good Practice, which was last revised in 2016, at Appendix 3B for comparison.
- 7.10 To support closer working between officers and Councillors the Executive Head of Planning Development is promoting that a Memorandum of Understanding (MOU) is developed between officers and Councillors. Some initial suggestions are contained at Appendix 4. All Councillors will be invited to suggest content for this MOU, a final draft will be reported to the next Standards and General Purposes Committee for approval.

## **8. Consultations**

- 8.1. No formal consultation has taken place on the suggested amendments.

## **9. Key Risks**

- 9.1. The function of a resilient planning committee is a key part of the Council's role as Local Planning Authority, by ensuring that Members understand their function and role in decision making. Poor decision making has considerable risk in terms of financial and reputational damage. Furthermore, if correct legal processes are not followed, the Council could be open to legal challenge.

## **10. Financial Implications**

- 10.1 Changes to the member referral process, as recommended in this report, have the ability to improve financial performance by making the application process more efficient. However, failure to make

these changes may have very significant adverse financial implications such as cost of appeals and the council being designated for non-performance.

- 10.2 Failure to ensure the timeliness and quality of planning decision making, may lead to unnecessary and avoidable appeals or legal challenges, thus incurring potentially significant costs to the Council.

## **11. Legal Implications**

- 11.1 However, potentially, there are also very significant legal implications arising from some of the recommendations. Although most represent procedural matters, as mentioned above, failure to ensure the timeliness and robust quality of planning decision making, may lead to unnecessary and avoidable appeals or legal challenges. In addition, these can in turn lead to added risk, reputational damage and Secretary of State intervention.

## **12. Human Resource Implications**

- 12.1 There are no direct human resources implications in relation to the proposals in the report.

## **13. Equality and Diversity Implications**

- 13.1 There are no direct equality and diversity implications in relation to the proposals in the report.

## **14. Climate Change/Sustainability Implications**

- 14.1. There are no direct climate change or sustainability implications in relation to the proposals in the report.

## **15. Summary of Options**

- 15.1 The Committee can either accepted the changes proposed to the Scheme of Delegation or refuse the changes. A third option would be to instruct officers to amend the proposed changes.

## **16. Conclusion**

- 16.1 The changes that have been suggested as set out in the Appendices provide clarity and will support actions to improve performance, transparency in decision making and positive relationships between officers and councillors.

## **17. Background Papers**

- 17.1 [Probity in planning: Advice for councillors and officers making planning decisions \(Planning Advisory Service, 2019\)](#)
- 17.2 [Planning Improvement Peer Challenge Report \(2018\)](#)
- 17.3 [PAS Review of performance in response to non-major applications \(June 2022\)](#)

## **18. Appendices**

- 18.1 Appendix 1A - Revised Scheme of Delegation to the Joint Executive Head of Development Management

Appendix 1B – List of proposed changes to the Scheme of Delegation

Appendix 1C - Existing Scheme of Delegation to the Joint Executive Head of Development Management with tracked changes

Appendix 2 – Revised Planning Committee Procedure Rules (with tracked changes)



Appendix 3A – Revised (July 2023) Councillors’ Planning Code of Good Practice

Appendix 3B – Existing (2016) Councillors’ Planning Code of Good Practice

Appendix 4 – suggested content for Memorandum of Understanding