



Northumberland

County Council

COUNCIL

DATE: 3 NOVEMBER 2021

Review of Planning Terms of Reference

Report of the Interim Executive Director of Planning & Local Services: Rob Murfin

Report of Cabinet Member: Councillor Colin Horncastle

Purpose of report

To review the Strategic Planning Committee Terms of Reference and Powers as set out in the Councils Constitution. This change is proposed following a formal recommendation for clarification from the Local Government Ombudsman.

Recommendations

Following consideration by Constitution Working Group, Council is recommended to agree that the Strategic Planning Committee Terms of Reference are amended to ensure clarity on whether an application is to be considered at Strategic Planning Committee or at the Local Area Council Planning Committee. The proposed wording is as follows and is marked up in bold and italics:

STRATEGIC PLANNING COMMITTEE Terms of Reference and Powers

(a) To exercise the powers and duties of the Council as Planning Authority in relation to development management under the Town and Country Planning Acts and other associated/related legislation and in particular, but not limited to, those functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, including the following matters which specifically require a decision by the Strategic Planning Committee:

- minerals and waste planning
- development concerning major energy and physical infrastructure proposals such as wind farms
- planning applications involving more than 100 houses and/or more than 1,000 sq metres of commercial floorspace
- planning applications involving less than 100 houses and/or less than 1,000 sq metres of commercial floorspace which raise significant strategic planning policy issues, and
- any other planning applications which represent a significant departure from the Development Plan

All applications are to be determined by the Chief Planning Officer in accordance with the powers set out in the internal scheme of delegation except for the following which fall to the **Local Area Council Planning Committee to be determined:**

- Applications submitted by or on behalf of elected members of the Council or by their spouses/partners
- Applications involving land and/or premises in the ownership or under the control of elected members of the Council or their spouses/partners
- Applications in which any senior officer* of the Council has a personal and prejudicial interest
- Determination of applications submitted by or on behalf of the Council (or by or on behalf of companies controlled by the Council); or of applications relating to land in which the Council (or company) has a significant interest (NB council to refuse such applications is delegated)
- Approval of applications where, in the opinion of the Relevant Officer, such an approval would constitute a departure from the approved Development Plan and would require a reference to the Secretary of State
- Any application which an elected member of the Council requests should be considered by the Committee, provided the request is in writing, is received within 21 days of the application appearing on the weekly list, and is supported by bona fide planning reasons (which will be reported to the Committee together with the Councillor's name)
- Any application which the Relevant Officer considers should be determined by the Committee because of special planning issues or considerations it raises including significant local interest, and
- Determination of applications where there are contrary comments received within the consultation period given raising bona fide planning issues from statutory consultees as defined in National Planning Practice Guidance.

*For the purposes of the Scheme of Delegation, Senior Officer is defined as Director or Head of Service (or equivalent title)

(b) Those functions prescribed by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as not being executive functions and not elsewhere allocated by this Constitution

Link to Corporate Plan

This report is relevant to the "Living" priority included in the NCC Corporate Plan 2018-2021 - "We want you to feel safe, healthy and cared for."

Key issues

1. Proposed amendments to the Council's Constitution are acceptable and allow for the Constitution to evolve as issues arise. This review means that this section of the Constitution is clear and resolves any ambiguity.

Background

1.1 As a result of a complaint regarding the determination of a planning application the Local Government Ombudsman was asked to investigate the complaint after the complainant had exhausted the Council's internal complaints process.

1.2 The complainant argued that there were faults in the Council's consideration of a reserved matters planning application. He said the approved development will increase flood risk to his home, has reduced its value and the process has caused him and his wife considerable stress

1.3 In response and having investigated the matter fully the Local Government Ombudsman came to the following conclusion

The Council's constitution

41. During my consideration of the complaint Mr X raised a point about whether the application should have been considered by the strategic planning committee of the Council rather than at a local area committee.

42. The section of the constitution is not clear and a literal interpretation would be that this type of application (and others) would need to be considered by the strategic planning committee. The Council accepted it is unclear and will seek to ensure that it is appropriately amended. But I accept the Council's position that its intention was always that such applications would be considered by local area committees. So while the unclear drafting is fault it has not affected the consideration of the application.

Summary

43. There were faults by the Council as I detail above. But they do not call into question the decision reached on the application. There is not, therefore, significant injustice to Mr X that warrants any action or remedy by the Council.

Agreed action

44. The Council will correct the unclear wording in the constitution. It should do so within three months of the final decision.

Final decision

45. There was fault by the Council but it did not cause significant injustice to Mr X

1.4 The Ombudsman did not uphold the complaint as set out in paragraph 1.2 above regarding the determination of the Planning application however they have concluded that the Constitution was not clear and should be reviewed.

1.5 The LGO's decision was made on 10th August 2021 and the Council have 3 months from that date of that decision to make the necessary changes.

Conclusion

1.1 The relevant section of the Councils constitution has been reviewed with the additional wording highlighted in bold and italics as set out in the recommendation. It is considered that the simple changes bring clarity and reduce any ambiguity as to which committee applications should be referred to.

Implications

Policy	The proposals are considered to be a reasonable and measured response to the recommendation of the Local Government Ombudsman
Finance and value for money	The proposals have no cost implications for the County Council
Legal	There are no implications of a significant nature
Procurement	N/A
Human Resources	None significant
Property	N/A
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	An Equalities Impact Assessment is not considered necessary given the proposals included in this report
Risk Assessment	N/A
Crime Disorder &	N/A

Customer Consideration	The measures and amendments proposed in this report are considered to preserve and protect the position of customers in relation to these matters
Carbon reduction	N/A
Health and Wellbeing	N/A
Wards	All

Background papers:

Council's Constitution

Local Government Ombudsman Decision letter dated 10th August 2021

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

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