



Planning Committee

9th March 2011

Report from the Director of Regeneration & Major Projects

For Consideration

Wards affected:
ALL

Amendments to Terms of Reference of the Planning Committee as set out in part 5 of the Brent Constitution

1.0 Summary

1.1 The terms of reference for decision making for the Planning Committee were last reviewed in their entirety as part of the drafting of the Council's Constitution in 2002. With the reduced staff resources now available, and a desire expressed by some members of the Committee to reduce the overall workload and frequency of meetings, it is now appropriate to review arrangements. The report recommends that amendments are made to the Planning Committee terms of reference that will reduce the overall Committee workload, removing less significant and all domestic applications from the terms of reference, in part by changing the objection criteria where an application is recommended for approval from more than 1 objection to more than 5. Alterations are also proposed to the member call-in procedure. These changes would still mean that the Planning Committee would determine all major development proposals. Any decision to change the Constitution requires a decision by the full Council.

2.0 Recommendations

2.1 That the Committee considers the following changes to the terms of reference to the Planning Committee in the manner set out in appendix A to reflect the following:

- a) To allow the determination of applications of more than 20 dwellings (currently 10). The implication being that Officers would be able to determine applications of less than 20 dwellings.

- b) That in cases where approval is recommended, the number of objectors required to determine that the decision is made by the Committee be raised from 2 to 5;
- c) That all applications for alterations and additions to residential buildings be determined by officers unless they are called in by members for a decision by the Committee;
- d) That the number of members required to call in an application be increased from 2 to 5.

2.2 To agree to reduce the overall number of Planning Committee meetings from 23 to 15 per year (comprising 12 planning application and 3 policy meetings), and to confine site visits to major proposals.

2.3 That the terms of reference of the Planning Committee include consideration of development proposals at a pre-application stage that allows for informal feedback on schemes prior to their formal submission, and that this is reflected in the Planning Code of Conduct.

3.0 Detail

3.1 The existing scheme of delegation for planning decisions has remained unchanged, with the exception of one amendment governing telecommunication masts, since the original adoption of the Council's Constitution in May 2002. The agreement allows for approximately 93% of planning decisions to be made using Officer delegated powers, with the remaining cases being reported to the Planning Committee for a decision. This has allowed the authority to meet government performance targets on planning applications (based on time taken to deal with applications), although in benchmarking terms with other authorities, Brent has been under pressure to raise its game. The current terms of reference for the Planning Committee (delegation agreement) are appended to this paper. The costs of processing applications, and the time it takes, increase when an application is reported to the Committee. The current system employed is robust however it requires a significant senior staffing resource to support it.

3.2 There are several pressing reasons for a review of the terms of reference and these are set out in paragraphs 3.3 to 3.6 below. They relate to the reduced resources now available to deliver the Planning function and support the Planning Committee, and need to ensure that the Planning Committee has a formalised role in providing feedback to developers on pre application discussions on major proposals.

3.3 The Planning service has and is likely to continue to face very significant budget reduction pressures brought about by the Council's efficiency programme, a reduction in fee income, largely due to fewer major applications, and the recent loss of the Housing and Planning Delivery Grant. In considering the implications of the loss of grant in July last year the Executive acknowledged that staff reductions would be required and that part of the consequence of this reduction would be decision making efficiencies through changes to the delegation agreement to determine planning applications by officers. There are also specific pressures on the resources

that support the Planning Committee including overtime allowances, support services and Case Officer time, and again in the absence of additional resources in the near future this situation will continue.

- 3.4 Members of the Planning Committee have expressed some concern over the frequency and length of meetings and the added time burden of site visits, undertaken on a Saturday morning prior to each meeting. In the past this has discouraged some members from being on the Committee.
- 3.5 Too many applications for domestic house extensions and outbuildings end up being reported to the Committee because of neighbour disputes and member call-ins. This has increasingly become a distraction for members at both the site visits and at the Committee meetings, and takes up too much member time. There are also many examples of discussions at the Planning committee on minor cases taking much longer than the determination of major schemes. Members of the public often have to wait for substantial items to be determined and this gives a poor impression of the decision making role of the Committee and the Council. For more minor and householder applications, the statutory target period for reaching a decision is 8 weeks. It is very difficult for applications that are considered by the committee to meet this target and most applications in these minor categories that are reported to the Committee go over time and affect the published performance figures within NI 157. Brent was one of London's highest performing authorities but has fallen back in recent years, partly as a result of most authorities improving performance and exercising greater decision making at officer level.
- 3.6 Local authorities are now being encouraged to involve Planning Committee members with pre-application discussions on more significant developments. In Brent we have started to do this through presentations to the Committee by developers either prior to a scheduled meeting or prior to or after Saturday site visits. This new function needs to be properly reflected in the terms of reference for the Committee and acknowledged in the Planning code of Conduct for members and officers.
- 3.7 There are currently 19 meetings of the Planning committee scheduled for the year of which 4 are meetings reserved for the discussion of policy and guidance. Policy meetings are sometimes cancelled if there is a lack of business. The cycle for meetings for decisions on planning applications is generally between three and four weeks. For each Planning application meeting there is a Saturday morning site visit that consists of prearranged visits to 4 to 7 or so sites. There has also been a meeting with Committee members prior to the start of the main meeting for Officers to provide updates on matters that have arisen since the Committee report was prepared and often covering issues that were raised at the members site visit. As from July 2010 this has changed, following discussions with members, to issue supplementary information the day before the Committee meeting in order to focus the briefing meeting on member's questions. The pre-meeting starts at 18-15, with the main meeting commencing at 19-00. A decision was taken several years ago to bring the start time of the Committee forward by half an hour to try and ensure that all business was conducted prior to the 22-30 p.m. deadline.

- 3.8 There are presently (last 6 meetings) on average 14 planning applications for determination on each Committee agenda (numbers have been higher in past years). Of these applications over 30% consist of domestic extensions, and 10% of minor residential schemes (Houses in multi-occupation, alley gating and 1 or 2 new units). Of the 36 domestic and minor residential cases considered over the last 6 meetings (average 6/meeting) 4 had no objections, 18 (56%) had two objections, 4 had 3 objections, 1 had 4 objections, and the remainder between 5 and 10 objections. All applications were approved with no recommendations overturned. There has been an average of 10 member call-ins in the last three years, mainly on minor domestic proposals. Members are often approached by applicants or their agents to request call-ins when they hear that the officer recommendation is to refuse an application.
- 3.9 It is proposed that the delegation agreement be amended to allow for the frequency of Planning Committee meetings to be reduced, whilst maintaining performance to government targets. It is also considered that the number of site visits be reduced to the point where a site visits will be confined to major schemes only, with photographs of sites being available to members on all reported items. For major applications the Council is now increasingly entering into Planning Performance Agreements that allow us to obtain the agreement of an applicant to a timetable leading to a Committee date that does not take the Council outside the statutory targets unless it fails to meet the agreed timetable. This will give the Council greater flexibility in the way it deals with major applications and will accommodate a less frequent cycle of meetings. The current statutory period for handling major applications is 13 weeks.
- 3.10 The recommended changes for the Council to consider are set out in appendix A to this report in the form of amendments to the terms of reference for the Planning Committee in Part 5 of the Constitution. They are also set out below:
1. Changes to the terms of reference to the Planning Committee to allow the determination of applications of more than 20 dwellings (currently 10). The implication being that Officers would be able to determine applications for less than 20 dwellings.
 2. That in cases where approval is recommended, the number of objectors required to determine that the decision is made by the Committee be raised from 2 to 5.
 3. That all applications for alterations and additions to residential buildings be determined by officers unless they are called in by Members for a decision by the Committee.
 4. That the number of members required to call an application in be increased from 2 to 5.

5. To comment on development proposals following presentations by applicants and their agents of more significant proposals at a pre-application stage.

4.0 Financial Implications

- 4.1 The Council's response to the mid year government spending reductions last year involved swift action taken to reduce spending in affected areas. This included the Planning Service where the loss of the Housing and Planning Delivery Grant left a £390k budget gap. The Executive acknowledged that staff reductions would be required and that part of the consequence of this reduction would be decision making efficiencies through changes to the delegation agreement to determine planning applications by officers. A reduction in the number of Committee meetings will reduce overheads associated with the meeting including site visits, with coach hire and officer time, and the resources from Legal and Democratic Services.
- 4.2 The cumulative impact of Wave 1 savings and a reduction in fee income have also further affected the planning establishment and have reinforced the need to work more efficiently. Changes have been made to staffing the technical support function and work is ongoing on streamlining processes. A reduction to the frequency of committee meetings, and a smaller Committee caseload will assist in this respect and allow the Service to remain effective in maintaining performance. National Indicator 157 (planning application processing times) is a long standing indicator that is likely to be retained by the government, possibly as the only planning indicator.

5.0 Legal Implications

- 5.1 The terms of reference for the Planning Committee are set out in Part 5 of the Council's Constitution which also contains the Planning Code of Practice for Members and Officers. Changes to the Constitution require the agreement of Full Council. Any amendments to Part 5 of the Constitution will need to be reflected in the Code of Practice.

6.0 Diversity Implications

- 6.1 It is not considered that the proposed changes will have any adverse impact on those affected by the planning process. The statutory requirement to consult on most applications will remain and representation made will still be considered prior to any decision on an application. Both applicants and parties affected by planning applications will continue to have access to planning staff and elected members, where they will be able to raise concerns.
- 6.2 The greatest change will be on householder applications where applications are generally made by property owners, with adjoining neighbours being notified. It must be borne in mind that the majority of householder applications are already considered under powers delegated to Officers. Equalities monitoring of planning applications has not revealed any specific issues.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 Staffing levels in the Area Planning teams, where planning applications are considered, have reduced in the last four years, most recently as a result of the mid year budget reductions in 2010, with the loss of the Housing and Planning Delivery Grant. The proposed changes will reduce the Committee workload and lead to the more efficient processing of more minor, less contentious applications. This in turn will allow a better staff focus on more complex work, particularly more senior staff.

Background Papers

Brent Constitution (as revised)

Contact Officers

Chris Walker
Assistant Director (Planning & Development)
Brent House, 349 High Road, Wembley, HA9 6BZ
Tel 020 8937 5246

Andy Donald
Director of Regeneration and Major Projects

Appendix A – (Suggested amendments marked bold)

TERMS OF REFERENCE OF COUNCIL COMMITTEES AND SUB-COMMITTEES PLANNING COMMITTEE

Membership

The committee is comprised of 11 councillors.

Terms of Reference

1. To determine applications for planning permission, consent or approval (including listed building and conservation area consent) in respect of the following types of development:-

- (i) construction of **20** (40) or more dwellings;
- (ii) outline residential development with a site larger than 0.1 hectare (approximately ¼ acre);
- (iii) construction of non-residential building exceeding 500 sq. metres in floorspace outside a designated employment area; and
- (iv) outline non-residential development with a site larger than 0.1 hectare (approximately ¼ acre), outside a designated primary employment area.

2. To determine applications for planning permission, consent or approval (including listed building and conservation area consent) which the Planning Committee has specifically indicated it wishes to consider itself.

3. To determine any application for planning permission, consent or approval (including listed building and conservation area consent) which at least **five** (~~two~~) members of the Council have requested, in accordance with the Planning Code of Practice, be considered by the Planning Committee.

4. To determine any other application for planning permission, consent or approval (including listed building and conservation area consent) in respect of which written objections have been received from **5** (2) or more households or businesses except where those objections relate to:-

- (i) **alterations to residential buildings including extensions, outbuildings (including garages)**, walls, vehicular accesses and hardstandings, and porches
- (ii) satellite television dishes or aerials
- (iii) other domestic aerials
- (iv) certificates of lawful use or development (~~except applications which relate to the lawfulness of the use of a dwelling house by more than one family unit~~)

AND except where the officers are in any event minded to refuse the permission, consent or approval.

5. To determine any application for planning permission, consent or approval (including listed building and conservation area consent) which would, in the reasonable opinion of the Director of Environment and Culture or the Head of Planning, significantly conflict with Council policies.

6. To determine any application for, or revocation of, planning permission or consent or approval (including listed building and conservation area consent) in case where the approval or revocation would, in the reasonable opinion of the Director of Environment and Culture or the Head of Planning, give rise to the payment of compensation.
7. To authorise the service of an enforcement or stop notice in respect of breaches of planning, listed building, advertisement and hazardous substances control where such action would involve the payment of compensation.
8. To agree to enter into agreements pursuant to section 106 of the Town and Country Planning Act 1990, section 38 of the Highways Act 1980 or any other agreements required in connection with any permission, consent or approval granted by the committee and to authorise officers to make such agreements subject to such restrictions as it considers appropriate.
9. To determine any matter relating to planning or hazardous substances which are delegated to officers, other than Executive functions, but which the Director of Environment and Culture or Head of Planning considers appropriate for the committee to consider.
10. To authorise the making of Tree Preservation Orders in cases where the relevant officer has declined to make an order.
11. In relation to other planning and/or development control matters:
 - (a) where requested by officers or the Executive to do so, to provide comments back to them on any applications for development in neighbouring boroughs and any changes to planning policy in other boroughs.
 - (b) to consider and recommend to the Executive or officers amendments to adopted or draft development plan documents , supplementary planning documents, planning briefs or other similar documents.
 - (c) to comment on development proposals following presentations by applicants and their agents of more significant proposals at a pre-application stage.**

Limitations

- (a) None of the above will apply to any application for permission or consent which the Council is required to refuse in accordance with a direction to do so from the Mayor of London or any Minister of the Crown issued pursuant to any legislative provision in which case the refusal shall be issued by the Director of Environment and Culture or the Head of Planning but reported to the Planning Committee for information.
- (b) Nothing in paragraphs 1-12 above shall apply to applications for permission for telecommunication masts submitted by telecom operators under Part 24 of Town and Country Planning (General Permitted Development) Order if the meeting at which the matter would be considered would take place after the deadline specified in that order for responding to the application in which case the application may, for the avoidance of doubt, be determined by officers under delegated powers.