

MAIDSTONE BOROUGH COUNCIL

COUNCIL

6 DECEMBER 2017

REPORT OF THE DEMOCRACY COMMITTEE 15 NOVEMBER 2017

PLANNING REFERRAL PROCESS REVIEW

Issue for Decision

On 15 November 2017 the Democracy Committee considered the report of the Working Group that had been reviewing the Planning Referral Process. The working group had considered the options of replacing the Planning Referrals Committee with a variety of other bodies. The Working Group recommended that the Planning Referrals Committee be abolished, and that a Planning Referrals process be maintained with applications referred to the Policy and Resources Committee.

At the meeting itself, the Committee made an amendment to the recommendation and decided that applications should be referred to Council instead of Policy and Resources Committee.

Recommendation Made

1. That there is a need to provide a check and balance mechanism in relation to Planning Committee decisions, and there should continue to be provision for the referral of an application to a second body for determination in circumstances where the Planning Committee votes to continue with a decision that it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, but that body should be the Full Council and the Planning Referrals Committee should be abolished.
2. That in the event of an application being referred to Full Council for determination, then a special meeting of Council should be arranged for this purpose, the provisions relating to public speaking at Planning Committee should apply.
3. That no Member will be able to serve on Full Council operating as the Planning Referral body without having agreed to undergo the mandatory training required to be undertaken by Members and Substitute Members of the Planning Committee, including training on pre-determination of planning applications. The training must be completed before Full Council first meets to discharge its function as the Planning Referral body, and must be refreshed as appropriate.
4. That, with regard to the sections of the Constitution/Local Code of Conduct for Councillors and Officers Dealing With Planning Matters relating to Planning Decisions Which Have Significant Cost Implications, the delegation to the Head of Planning and Development upon the advice of

the Legal Officer present to refer an application to a second body for determination should be amended to be in consultation with the Chairman of the meeting.

5. That the Monitoring Officer be requested to amend the Constitution and Local Code of Conduct for Councillors and Officers Dealing with Planning Matters accordingly.

Reasons for Recommendation

The reasons behind abolishing the Planning Referrals Committee and replacing it with another, pre-existing committee, are fully outlined in the report attached as Appendix 1.

The Committee debated the various options, and instead of agreeing with the working group's recommendation for the Policy and Resources Committee to be the Planning Referrals body, it recommended that Council should fulfil this function. The reasons given for this were that it was more democratic. Whilst it would be easier to manage the training requirements for Policy and Resources Committee, the Committee felt that a logistical consideration should not preclude a more democratic way of taking a decision. An extract from the minutes explaining the reason for making the decision can be found below:

'The Committee debated the recommendation of the working group and considered that although the working group had recommended that Policy and Resources Committee replace the Planning Referrals Committee, taking a controversial application to Full Council would be more democratic. It was noted that the main reason that the working group had recommended Policy and Resources Committee was logistical, due to the need for training all Councillors in planning matters before the Council meets to discharge this function. The Committee was of the view that a logistical consideration should not preclude a more democratic way of determining a controversial planning application.'

Alternatives Considered and Why Not Recommended

The Council could choose to retain the Planning Referrals Committee in its current form. However when it last met, members expressed their dissatisfaction with the process and the effect it had on the three councillors on the Committee.

Benefits and drawbacks of the other proposals suggested to replace the Planning Referrals Committee are contained in Appendix 1 to this report.

Background Documents

Appendix 1: Planning Referral Process Review Report to Democracy Committee
15 November 2017