

# Planning Committee Procedure Rules

## Terms of Reference of Planning Committees

### 1. **The Planning Committees**

1.1 The Full Council will appoint one Strategic Planning Committee and four area-based Planning Committees to exercise functions and responsibilities relating to:

1.2 Town and Country Development Management (excluding the preparation of plans and policies) as specified in Schedule 1 of the Local Authorities Functions and responsibilities (England) 2000 as amended by subsequent regulations including but not limited to:

- a) Planning applications
- b) Enforcement action
- c) Planning agreements i.e. s106
- d) Lawful use or development
- e) Advertisement control
- f) Listed buildings and Listed Building Consent
- g) Footpaths and highways
- h) Waste matters
- i) Hazardous substances
- j) Trees and hedgerows
- k) Mineral applications

These functions will be exercised over the whole geographical area of the Somerset Council on the basis set out below.

### 2. **The remit of the Strategic Planning Committee**

2.1 The remit of the Strategic Planning Committee does not include:

- matters reserved to full council
- matters where functions are exercised under delegated powers in the officer scheme of delegation save where an officer declines the delegation and the matter would otherwise fall within the terms of reference of the Strategic Planning Committee.

### 3. **Delegation to the area based Planning Committee(s)**

3.1 All of the functions of the strategic planning committee, set out in Para 1.2 above, will be delegated to the relevant area based (these will be known as North, East, South and West) Planning Committees save for the following:

- Waste and Minerals applications, referred from the Planning Committees where the proposed decision is to overturn the Officer recommendation. Such applications will be automatically referred up to the Strategic Planning Committee who will determine the matter at resolution

stage in place of the area based Planning Committees.

- Waste and Mineral applications that are a departure from adopted Waste and minerals development plans and recommended for approval by officers (excluding S.73 applications).
- Applications and matters that relate to the application site boundary which are not contiguous with the boundaries of a single area-based Committee or the boundary of the authority.
- Public Rights of Way (PROW) and Village Green applications (which are referred by officers to the Strategic Planning Committee.)
- Phosphates:

a. To have oversight of the programme and delivery of nutrient mitigation projects to support a series of interim measures to offset additional phosphates resulting from affected new developments within the River catchment areas affecting the Somerset Levels and Moors Ramsar site (and specifically the measures as approved by SWT Full Council on 5 October 2021);

b. To have oversight of the monitoring of the performance of the above interim projects once delivered;

c. To agree the criteria to be used for the allocation of any phosphate credits generated from interim projects and the creation of a legally robust and transparent process for such allocation (including the terms of any S106 obligations with developers/landowners);

d. To review the terms of the draft Supplemental Planning Document (SPD) on the strategic solution to the nutrient enrichment issue (to be reported to Planning Policy Executive Sub-Committee/ Full Council for prior to consultation and for adoption).

Note: for the avoidance of doubt the role of the Strategic Planning Committee does not include the determination of any planning applications that include Phosphate mitigation measures, that would ordinarily fall to one of the area-based Planning Committees.

- Consideration of quarterly officer reports from area-based Committees to monitor decision making and workload levels of the Committee.
- Functions under schedule 2 of the Local Authorities Functions and Responsibilities Regulations 2000\*  
(\*These may move to a different Committee)

#### **4. The Referral Process from the area-based Planning Committee to the Strategic Planning Committee**

- 4.1 The consideration by the Strategic Planning Committee, of matters referred to it from the area-based Committees (set out in Para 3 above), shall be conducted as a rehearing of the original application or matter.
- 4.2 The Strategic Planning Committee shall affirm, vary or overturn the resolution recommended by the area-based Planning Committee.
- 4.3 The decision of the Strategic Planning Committee will thereupon stand as the decision of the Council as so affirmed or varied as the case may be.

## **5. Area-Based Planning Committees**

5.1 The Full Council will appoint 4 area-based Planning Committees:

- Planning North (covering the former Sedgemoor District Council area)
- Planning East (covering the former Mendip District Council area),
- Planning South (covering the former South Somerset District Council area)
- Planning West (covering the former Somerset West & Taunton District Council area.)

5.2 The geographical responsibilities as set out in a geographical map of the four area-based Planning Committees is available via the Council's website. The principles of geographical determination are set out below:

## **6. Principles of geographical location**

- 6.1 The exercise of the functions and responsibilities by individual area-based Planning Committees are subject to the following geographical condition:
- 6.2 The applications or matters referred to the area-based Planning Committees for determination relates to application sites and functions that arise within the divisions within the former District Council geographical areas.

## **Procedures**

The procedures at the Strategic Planning Committee meetings and area-based Planning Committee meetings will be as follows.

## 7. Membership and Meeting arrangements

- 7.1 The Strategic Planning Committee will be comprised of 13 members.
- 7.2 The four area-based Planning Committees will be comprised of 13 members (or as otherwise detailed in the area-based Planning Committee Terms of Reference).
- 7.3 The membership of the Strategic Planning Committee shall be drawn from across the local government area and will be politically balanced. The membership for the area-based Planning Committees will be drawn from the area which that area-based Planning Committee covers, where possible. All these committees shall be politically balanced in compliance with the statutory scheme in the Local Government and Housing Act 1989 and any subsequent legislation.
- 7.4 The relevant Planning Committees will meet at times and places appointed and published in accordance with the requirements of the Access to Information Rules. The maximum length of a Committee meeting will be up to 4 hours duration (excluding any comfort breaks). All meetings will be webcast and employ the use of hybrid participation technology, but committee members and lead officers must be present in the room.

Number of members of Strategic Planning Committee and area based Planning Committees	13
Substitute Members Permitted	Yes. As far as possible from the same geographical area subject to the political balance rules.
Political Balance Rules apply	Yes
Appointments/Removals from Committee	By resolution of Full Council, Political balance review or notification by Political Group Leader.
Restrictions on Membership	Lead Executive Members are not barred from membership of the Planning Committees, but membership should generally be avoided due to bias or predetermination issues.  Chair/Vice-Chair of Strategic Planning Committee may not sit on any area-based Planning

	<p>Committee.</p> <p>The undertaking of such training as determined by the Service Director on planning and other functions falling within the remit of the area-based Planning Committees and Strategic Planning Committee, probity in decision making, is a prerequisite to membership of, and substitutes for this Committee</p>
Restrictions on Chair/Vice Chair	As above
Quorum	5
Number of ordinary meetings per Council year	At least 2 per year for each committee

### Substitution and Membership

- 7.5 Lead Executive Members are not barred from membership of the Planning Committees but membership should generally be avoided due to potential bias or predetermination issues.
- 7.6 Chair/Vice-Chair of the Strategic Planning Committee may not sit on any of the area-based Planning Committees. Ordinary members of either Committees can sit on Strategic and area-based Planning Committees.
- 7.7 Substitutes may attend meetings in that capacity only to take the place of the member for whom they are the designated substitute where the ordinary member will be absent for the whole of the meeting and where the member has notified the Democratic Services Manager or the Monitoring Officer of the intended substitution by no later than 24 hours before the start of the relevant meeting, or in exceptional circumstances and with the consent of the Chair, no later than one hour before the start of the relevant meeting.

### Chair Responsibilities

- 7.8 The Chair will preside over meetings of the Planning Committee and, where the Chair is absent for the whole or part of the meeting, the Vice-Chair will preside over the meeting or that part of it. In the absence of both the appointed Chair and Vice-Chair for either the whole of or part of a meeting, the Planning Committee will appoint from those Councillors then present a person to act as Chair for the duration of that meeting or part of it. (All references to 'Chair' in these rules will be read as referring to the person acting as Chair at the relevant meeting or part of it).
- 7.9 The Chair of the Planning Committee meeting will be responsible for:

- a. calling items for consideration as they appear on the Agenda,
- b. calling and allowing persons to speak at the Planning Committee meeting,
- c. maintaining good order at the Planning Committee meeting. For this purpose, the Chair has the right to curtail any speaker (including a member of the Committee), or to suspend the Planning Committee meeting, in cases of disorder, until good order has been restored.

7.10 In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

7.11 Decisions of the area-based Planning Committees and Strategic Planning Committee are not subject to scrutiny arrangements/call in.

7.12 The order of business for each meeting of the Planning Committees:

- a. Opening matters;
- b. Apologies for absence;
- c. Substitutes
- d. Minutes of the previous meeting;
- e. Declarations of interest;
- f. Planning Applications
  - i) The Chair will announce the agenda item number.
  - ii) The Planning Officer will introduce the application with any relevant updates and provide a visual presentation to aid members' understanding of the context of the application.
  - iii) The Chair will call on public speakers to present in accordance with the Public Speaking Arrangements.
  - iv) The Chair will then ask members/officers if they have any points of clarification on points raised by public speakers.
  - v) The Chair will then ask members if they have technical questions of officers.
  - vi) The entire committee will then discuss/debate the application.
  - vii) Members may seek further clarification of
    - A) particular points from officers, regarding the application, or
    - B) on points raised by speakers, in the main debate, through the Chair.
 Officers will respond to issues and questions raised by members.
  - viii) The Committee will then make a decision by vote.
- g. Other matters requiring consideration by the committee

7.13 Where there is no provision made in these Planning Committee Procedure Rules the requirements of the Committee Procedure Rules will be followed at the discretion of the Chair.

## **Minutes**

7.14 Minutes will contain all motions and amendments in the form and order they were put.

## **Approval of Minutes**

7.15 At every meeting of the Planning Committee(s) the Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

## **Declarations of Interests**

7.16 Declarations will be made in accordance with the Code of Conduct. These declarations will be made at the outset of the meeting under the item listed as 'declarations of interests' on that Planning Committee's agenda or as soon as the interest comes to light.

## **Public Speaking Arrangements**

7.17 If matters are referred to Committee the following will be invited to speak in order at the Planning Committee meeting at which a matter is considered:

- a. Members of the public, or their representatives, who have previously made written representations objecting to or in support of the application;
- b. Town or Parish Councils who have previously made written representations objecting to or in support of the application;
- c. Members of the Council who are not members of the Planning Committee; and
- d. The applicant or agent.

7.18 Anyone wishing to speak at Planning Committee on a Planning Application and who wishes to do so must register their request with Democratic Services by twelve noon one working day in advance of the relevant Committee meeting. Requests will normally be dealt with on a first come first served basis. Details on how to register will be provided in the invitation to speak.

7.19 The circulation of documentation including photographs or presentation materials will be permitted if submitted to the Case Officer and Democratic Services 48 hours prior to the Planning Committee meeting. Circulation of such documentation within 48 hours prior to the Planning Committee(s) will generally not be permissible.

7.20 Anyone wishing to raise a question(s) at Public Participation at Planning Committee must register such question(s) two working days in advance in writing, (refer to Council Procedure Rules Para X) with Democratic Services.

Details on how to register will be provided in the invitation to speak. The circulation of documentation including photographs or presentation materials will not be permitted at the Planning Committee meeting.

7.21 The order of speaking and time limits for Planning Committee meetings for each application will be as follows:

Members of the Public or their representatives objecting to or in support of the application	Parish/Town Council(s)	Members of the Council (non planning committee members)	Applicant or Agent
3 minutes for support (shared) and 3 minutes for object (shared)	3 minutes each	3 minutes each	3 minutes

7.22 Where speaking times are shared, there is an overall time limit of three minutes in total, not three minutes each. Speakers in the above categories will be encouraged to coordinate with each other so that repetition can be avoided.

7.23 At the Chair's discretion in consultation with the legal advisor the time allowed may be increased. A speaker may nominate a single spokesperson to speak on their behalf.

### Voting

7.24 When a Planning Committee is considering any item, a member of the Committee must be present throughout the entire presentation and subsequent debate on the item, in order to vote on that item.

7.25 All members of the Committee will have one vote. The Chair will have a second or casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.

7.26 Voting will be either for the recommendation as it appears in the written report, including any update report, (or as amended by the Planning Officer verbally at the meeting) or subject to a. and b. below for the amendment to the recommendation (as proposed by a member of the Committee) or an alternative proposal. Where there is more than one amendment proposed, they will be voted on in the order in which they are proposed.



- a. Before voting on a resolution, the effect of which is to refuse permission contrary to the officer recommendation, the Committee must identify the planning reasons behind the decision before the vote is taken, which may need to be justified in the event of an appeal or other challenge.
- b. Before voting on a resolution, the effect of which is to grant planning permission contrary to the officer recommendation, the Committee must approve relevant conditions and reasons for the departure from the officer recommendation. The detailed compilation and attachment of relevant conditions and reasons can be delegated to Officers.
- c. Once the Committee has before it the full resolution and the reasons for such, the Chair can invite planning and legal officers to advise on the clarity and validity of the reasons, including any associated risks. If there is any concern about the reasons, the Committee may consider deferring the item to another meeting for the reasons to be tested and discussed at the next convened meeting.

7.27 Any Councillor of the Committee may request that their name be recorded in the Minutes of the meeting recording the way they have voted in respect of any item.

7.28 Where there is ambiguity in the way votes are cast, the Chair may request Committee members to confirm their votes before the Committee's decision is recorded.

### **Site Visits**

7.29 Officers may organise a pre-Committee site visit where they feel it would be a valuable part of the planning process. However, they can cause additional costs and should only be used where the expected benefit is substantial. A decision to carry out a pre-Committee site inspection should normally only take place:

- a) If the impact of the proposed development is particularly difficult to visualise from the plans and any supporting material; or
- b) There is considerable local concern about a proposal, allied to planning reasons for carrying out the visit (e.g. the physical relationship of the site to other sites in the neighbourhood).

7.30 When site inspections take place, careful arrangements must be made to ensure that all parties are treated fairly and equitably, and that the appropriate standards of propriety are seen to be upheld, particularly to avoid the visit being seen as part of a lobbying process. Accordingly, the following rules will apply:

- a) The visit will be led by a planning officer.
- b) Members should not seek to have discussions either with the applicant or with members of the public who may be present. The public should not be invited and have no right to enter a site without the consent of the occupier. However, attendance does occur from time to time and

requires careful handling to ensure confidence in subsequent decision making.

- c) If discussions do take place, no view on the merits or otherwise of the proposal should be given, as to do so may lead to suspicion that the individual Member had already made up his or her mind. Members should keep together, avoiding side discussions.
- d) Members should not engage individually in discussions with the applicant, Agent, objectors, third parties or members of the public who may be present as again suspicion may arise that this is part of the lobbying process rather than the information-gathering process.
- e) No hospitality should be accepted at site visits,
- f) Members may, at the site visit, ask officers questions or seek clarification on matters relevant to the site inspection.
- g) A site visit is not a formal meeting of the Planning Committee and therefore a Member with a Disclosable Pecuniary Interest is not debarred from attending. However, such a member must take care to ensure that;
  - i) nothing he or she does at the site visit breaches the Members Code of Conduct and
  - ii) he or she does not imply that he or she will be part of the decision making process at the Planning Committee.

### **Site Inspections by Individual Members**

7.31 Members are able to look at an application site following the receipt of the agenda and prior to the date of the Planning Committee meeting. This will enable them to acquaint themselves with the nature of the proposal and will help avoid delay and unnecessary site visits. However, Members should only conduct such site inspections from a public vantage point and should not meet with or discuss the application with any applicant/agent or third party on site.

### **Other Matters**

7.32 The undertaking of such training as determined by **the Executive Director (Climate & Place)** on planning and other functions falling within the remit of the area-based Planning Committees and Strategic Planning Committee, including probity in decision making, is a pre-requisite to membership of, and substitutes for this Committee.

7.33 From time to time the Planning Committee(s) may consider reports on other items falling within the Committees terms of reference, such as performance reports, appeals, or proposed changes to national or regional planning policy.

7.34 In those circumstances the procedure to be followed will be as described for public items above except that, there being no Planning Application for the Committee to determine, there will be a provision for public questions before the Committee and before the Committee proceeds to substantive business.

## **8. Delegation of functions**

8.1 The majority of the Committees functions will be performed by Officers as set out in Part X of the Constitution. These delegations are subject to:

- a) Any such delegation being consistent with the Development Plan, National Planning Policy Framework and any other applicable legislation and government guidance; and
- b) Statutory and customary consultation being carried out.

Where Planning functions are delegated to an officer of the Local Authority, the officer may decline such delegation and refer the application to Committee.

### **Exceptions to delegated powers**

8.2 The following decisions are not within the scope of the powers delegated by this Scheme and shall be taken by the relevant Planning Committee. Where:

- i. The applicant is a Member of the Council or a direct relative of a Member of the Council
- ii. The applicant is one of the Council Officers listed below:
  - Senior Officers of the Council's **Senior Management Team**;
  - Where the applicant is, or is directly related to, a member of staff in the Planning Service;
  - Any other employee who has direct involvement with the planning process in the course of their duties.
- iii Matters which the relevant **Executive Director (Climate & Place)** considers to be controversial due to their size, nature or impact, or for any other reason.
- iv. Council's own development (excluding minor alterations<sup>1</sup> to Council owned assets)
- v. Where the proposal is a departure from the development plan and the Officer recommendation is to approve (excluding S.73 applications)

### **Applications delegated to Officers**

8.3 Subject to the exceptions to delegated powers above the following matters are delegated to Officers and are exempt from the referral process:

- Certificates of Lawfulness Existing or Proposed
- Prior Approval/Prior Notification – all types
- Approval of details reserved by condition / discharge of Development Consent Order (DCO) requirements.
- Hazardous substance consents
- Any applications for works to trees, hedgerow removal or high hedges
- Permission in Principle (PIP)

### **Referral Process to relevant Planning Committee**

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8.4 The relevant Divisional Member(s) and Parish/Town Council will be notified of the following applications. They will be able to request that these applications are referred to the relevant Planning Committee:

- Planning permission (outline and full)
- Advertisement consent
- Listed building consent
- Application for planning permission for relevant demolition in a conservation area
- Reserved matters approval following outline permission
- Variation/removal of conditions – **Section 73 applications**

8.5 Divisional Members will also be notified of applications for Permission in Principle but the decision would be delegated to Officers meaning they would not be referred to the relevant Planning Committee.

**8.6 Divisional Member referral (within 21 days of original notification or 14 days after notification of revisions):**

- a. Within 21 days of being notified of a Planning Application, a **Somerset Council member can request referral of the application** to the relevant Planning Committee by notifying the planning officer, in writing, stating whether they support or object, with material planning reasons;
- b. **If the Officer recommendation is ultimately contrary to that of the Member view AND the application is classified as a major application<sup>2</sup> it will automatically be referred to the area-based Planning Committee.**
- c. **If the Officer recommendation is ultimately contrary to that of the Member view AND the application is not classified as a major application, then the Strategic Director (Climate and Place)(in accordance with the delegation scheme) in consultation with the Chair and/or Vice-Chair of the relevant planning committee, will (where possible) consult with the Divisional Members, will determine whether or not the matter should be referred to Planning Committee, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.**
- d. **On referral to Chair and/or Vice Chair, the Divisional Member will receive a copy of the officer report and will be advised of the decision on whether it stands referred.**

**8.7 Divisional Member referral (post 21 days):**

- a. As a direct result of substantial changes and re-notification of an application to a Member, a **Somerset Council Member** will be given a further 14 days, from the date of re-notification, to request that the

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<sup>2</sup> The following types of application are classed as 'major':

- Residential applications for 10 or more dwellings
- The site is 0.5 hectares or more in size and where the number of dwellings is unknown
- Development site of 1 hectare or more
- Development involving floor space of 1,000m<sup>2</sup> or more

application is referred to the relevant Planning Committee by notifying the planning officer in writing stating whether they support or object, with material planning reasons.

- b. If the Officer recommendation is ultimately contrary to that of the Member view and the application is classified as a major application<sup>3</sup> it will automatically be referred to the area-based Planning Committee.
- c. If the Officer recommendation is contrary to that of the Member view, and the application is not classified as a major application, then the Strategic Director (Climate and Place), in consultation with the Chair and/or Vice-Chair of the relevant planning committee, (where possible) will consult the Divisional Members and will determine whether or not the matter called-in by a councillor should be considered by Planning Committee, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.
- d. On referral to Chair and/or Vice Chair, the Divisional Member will receive a copy of the officer report and will be advised of the decision as to whether it stands referred.

## 8.8 Referral by Town and Parish Councils

- a. Within 21 days of being notified of a Planning Application, a Town or Parish Council must notify the planning officer in writing, that:
  - i They wish to refer the Planning Application to the relevant Planning Committee by either supporting or objecting to the application and;
  - ii Provide material planning reasons for the referral and;
  - iii Provide an undertaking that a representative will attend and speak at committee if the request for referral to Committee is agreed;
- b. If the Officer recommendation is ultimately contrary to that of the Parish view and the application is classified as a major application<sup>4</sup> it will automatically be referred to the area based Planning Committee.
- c. If the Officer recommendation is contrary to that of the Town or Parish Council view and the application is not classified as a major application, then the relevant Strategic Director (Climate and Place), in consultation with the Chair and/or Vice-Chair of the relevant planning committee, will (where possible) consult the Divisional Members, will determine whether or not the matter referred by the Town or Parish Council should be considered by the relevant Planning Committee, or whether the exercise

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<sup>3</sup> The following types of application are classed as 'major':

- Residential applications for 10 or more dwellings
- The site is 0.5 hectares or more in size and where the number of dwellings is unknown
- Development site of 1 hectare or more
- Development involving floor space of 1,000m<sup>2</sup> or more

of delegated powers is appropriate, providing material planning reasons for this decision.

- d. On referral to Chair and/or Vice Chair, the Divisional Member will receive a copy of the officer report and will be advised of the decision as to whether it stands referred.