

Wiltshire Council

Western Area Planning Committee

01 August 2012

**Question from Councillor Ernie Clark
(Hilperton Division)
Public Participation – item 5**

Question

Could I please be reminded of the principles by which planning applications are referred to the Strategic Planning Committee rather than an Area Planning Committee?

Response

**Strategic Planning Committee
Role and Functions**

The committee will exercise the following functions:

To make strategic planning decisions as follows:

- The implications of major developments outside of Wiltshire that could have an impact on local residents.
- To consider the following categories of applications for planning permission:
 - Large-scale major developments (defined by the Department for Communities and Local Government as those of 200 houses or more or 10,000 square metres of non-residential floor space) which, by their nature, (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance
 - Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility
 - Significant applications by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person (Regulation 3 applications)
 - Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval

- Applications called in by a division-member that cross the boundary of two area committees

- Any application where the director of the development service considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses

- Consider documents relating to the Local Development Framework and advise Cabinet where appropriate

There shall be no referral up of applications to the Strategic Planning Committee from the area planning committees.

Area planning committees Role and Functions

To consider applications not within the remit of the Strategic Planning Committee and not delegated to officers except where the director of the development service considers it inappropriate to exercise delegated powers having considered public representations and consultee responses.

To consider matters of local importance within the area such as:

- the designation and amendment of conservation areas
- village design statements and parish plans where Council approval is required for them to be considered as material considerations in dealing with planning applications
- consideration of planning applications called to an area committee by division members, with the exception of those that fail to be determined by the Strategic Planning Committee
- registration of common land for town and village greens
- variation of rights of common
- determination of applications under the Explosives Act 1875
- public rights of way, including modification of the definitive map and the regulation of the use of the highway.

There shall be no referral up of applications from the area planning committees to the Strategic Planning Committee.

Part 3C

Scheme of Delegation Specific to Planning

1. The Director of Development (and any officers designated by that officer) is authorized to: -
 - determine any planning application and discharge conditions under delegated powers (including tree/hedgerow work applications);
 - deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including listed building enforcement and urgent works notices and taking any further action, including prosecution and direct action in respect of any breach of control);
 - deal with all types of appeal and their format;
 - where an appeal has been lodged against a planning decision and Counsel advises that specific refusal reasons are unreasonable and/or likely to undermine or weaken the council's case and time constraints prevent the matter being brought back to committee, officers, in consultation with the committee Chairman and Local Division Member are authorised to inform the appellant and the Planning Inspectorate that the council will not seek to defend such reason(s) at appeal, provided any such action does not overturn the substantive decision of the Planning Committee;
 - make and confirm Tree Preservation Orders; Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters;
 - determining any applications made under the High Hedges provisions of the anti-social behaviour legislation; including any necessary enforcement action;
 - deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, building and environmental and other legislation. This includes proposals to change legislation or national guidance and consultation by other planning authorities;
 - determine the requirements for, and amend when necessary the local validation list for planning applications;
 - make and confirm Article 4 directions restricting or removing permitted development rights;
 - nominate officers to represent the council on forums and working parties;
 - authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Acts;
 - enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);

- make changes to conditions approved at committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the committee's decision. Any such changes will be reported back to a subsequent committee for member's information;
- annually recommend to the budget process all planning fees and charges
- refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the timeframe set out in the officer's report and present an information report for acceptance by the relevant Planning Committee on a quarterly basis ;
- institute and defend judicial reviews and statutory challenges in consultation with the head of legal services.
- Make and serve Building Preservation Notices.

With the following exceptions:

1.1 Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations.

1.2 Reference to Committee by Wiltshire Council Division Member

Division Members can request in writing/email that a planning application within their Division proceed to determination by way of an area committee. (Any request must be received within 21 days of the circulation of the weekly list of 'applications received' in which it appears, and set out the material planning consideration(s) which warrant the application going before committee). Officers will confirm what action is being taken following receipt of the request.

Where it has not been possible or appropriate to call an application in within this time, officers will accept call in requests in the following circumstances: -

1. An application has not been determined and it can still go to committee and be determined within the target date.
2. The application is already going to go out of time (because of negotiations/amended plans etc.) and taking it to committee will make no difference to performance.

Where neither of the above apply, and the Division Member thinks there is a strong case to delay the determination of the application and take it to committee, they can discuss the case with the relevant Area Development Manager who will then make an informed decision whether or not to exercise delegated powers.

- a. It is perfectly acceptable for councillors to nominate a substitute(s) to undertake their planning responsibilities, including application 'call in', if they have a conflict of interest or during periods of absence such as holidays or illness.

- b. Applications for tree work, prior approvals, Certificates of Lawfulness; notifications and variations/discharge of legal agreements - where the latter would bring them in line with a planning decision already made by the council, will not be eligible for call-in and will be dealt with under delegated powers.
- c. If private applications are made by an elected member or a senior officer of the council or their close relations, or by a planning officer and objections are received raising material planning considerations the application will be determined by committee.

There will be occasions where it would be possible to deal with certain applications under delegated powers but where the Director of Development considers it inappropriate to do so, having considered any public representation and consultee responses. In these cases the applications will be determined by an appropriate planning committee.

1.3 The following applications shall be dealt with by the Strategic Planning Committee:

- Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues.
- Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;
- Applications, which if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
- Applications called in by a Division Member that cross the boundary of two area committees;
- Any application that the Director of Development deems raises issues that should be considered by the Strategic Planning Committee.

Definitions

Planning application means any application submitted to the council for determination and included within the Governments' PS1 and PS2 returns. (This is a statistical questionnaire dealing with performance which local authorities have to submit regularly to the government and which divides planning application into distinct categories; householder, minor, major etc.)

'Large scale major development' means any application for 200 or more houses; residential development of 4ha or more or other development of more than 10,000 square metres or more than 2 ha, as defined by the Government in the PS1/2 return.

Householder development and the other descriptions of development referred to above shall have the meaning ascribed to them in the Government's PS1/2 return.

Enforcement notices includes all other formal notices under the Planning Acts used to investigate and remedy alleged breaches of planning control or improve the appearance of an area, including Breach of condition notices and Section 215 notices.

A private application is one which has no connection with a member or officer's council duties. For example, if an officer submitted a Regulation 3 application on behalf of Wiltshire Council it would not be a private application.

A 'senior officer' will mean any Service Director, Corporate Director or the Chief Executive.

A close relation is defined as spouse, partner, sibling, parent or offspring.