

Title: **Changes to West Wiltshire District Council
Constitution affecting the Planning Committee**

Reporting Officer: **David Hubbard, Development Control Service Manager**

Purpose

This report is brought to the committee at the request of Councillor Newbury who wishes the Committee to have the opportunity to debate the changes to the council's constitution which directly affect the planning committee.

Background

Members will be aware that the District Council is presently reviewing its constitution.

The vast majority of our procedures in relation to planning committee will not change. The open approach to the involvement of local councils and the public will continue.

The revised constitution is to be considered by a special Council meeting on 15 December 2005.

Main Issues

The changes under consideration are:

Town and Parish Councils

1. Requesting the town or parish council to supply good planning reasons to support its comments to the District Council. This is particularly relevant where the town or parish council recommends that planning permission should be refused, as this will result in the application being referred to the Planning Committee if the planning officers are recommending that planning permission should be granted:

This would mean that the town and parish councils would be requested to express your arguments in a way that helps the committee understand the sorts of planning reasons that you have in mind. It would help the Committee to always focus on the key issues. It does not mean that town and parish councils would need to conclude on the weight of various planning considerations, nor that they would need to draft their comments in technical language. A good planning reason does not have to be a reason that will be agreed by the Committee or planning officers to be persuasive, it simply needs to be relevant and the sort of matter that the Committee is permitted to take into account.

If such reasons were not provided, the Committee would have cause for concern but the application would nevertheless still be referred to the Committee based on your request.

A conclusion has not yet been reached on this point but many elected members have suggested that they support this approach and believe it will help further develop our partnership approach.

or

2. Requiring the town or parish councils to supply good planning reasons when requesting that an application be referred to Planning Committee.

The effect would be the same but, in addition, it would mean that if such reasons are not provided, and if the Development Control Service Manager in consultation with the Chairman of the Planning Committee are of this view, the application would not be referred to Committee as a result of your request. There may, or may not, be other causes for the application to go before Committee.

A conclusion has not yet been reached but many elected members have suggested that this approach is too inflexible.

In either case it is proposed to support the town and parish councils through these changes by providing written advice about material planning considerations and by setting up a series of workshops to discuss with town and parish councils their role in the planning system and the issue of material planning considerations.

District Council Members

- 1 A similar request (but not requirement) that District Council members state good planning reasons when requesting an application be referred to Committee.

District Council ward members would be advised to express reasons based on their own observations or those of people they represent. They would be requested to not conclude on any matters, as they would need to avoid a final judgement until they had been informed of all the material planning issues. No member can be fully informed until the Planning Committee takes place and all up-to-date information has been presented and debated.

- 2 Retaining the right of local ward members to refer applications to Committee (on the basis stated above) and also allowing that opportunity in relation to applications in neighbouring wards.
- 3 For requests in relation to other applications (applications that are not local to the District Council member making the request) a new rule is proposed requiring there to be five District Council members in support of the request.

The effect of this small change is to protect the rights of District Council ward members in relation to local issues and to ensure that the Committee only

considers applications where there is either a local concern or a widespread concern.

Open Forum

Clarifying the rules in relation to the public and parish and town councillors speaking at Committee, to emphasise that:

- the approach will continue to encourage participation and openness, will be within the discretion of the Chairman, including the individual time limits (usually three minutes)
- any one individual will only be permitted to speak on one agenda item or, at the discretion of the Chairman, have their time limit divided between a number of items.

This could be varied by the Chairman where the person was acting on behalf of more than one applicant, was representing more than one parish or town council, or was directly affected by more than one application.

The intention is to avoid the possibility of one or more individuals, not on the Committee, having undue influence on the proceedings of the Committee.

Applications for certificates of existing or proposed lawful use

It is considered that the determination of these applications be delegated to the Development Control Service Manager.

The reason for this proposed change is a technical one based on the grounds on which these applications are determined. Unlike most applications considered by the planning committee which are considered on the basis of the development plan and planning merits, certificates of lawful use are determined solely on the basis of evidence submitted with the application and leave little scope for debate by members.

In the case of certificates of existing lawful use or development evidence would need to demonstrate that the use or development had been in continuous use for more than the appropriate 4 or 10 year period or did not constitute development which would require planning permission.

Similarly in respect of certificates of proposed lawful use or development evidence would need to demonstrate that the proposals did not constitute development or were permitted development.

In both cases the evidence would be considered by the planning officer in consultation with the democratic and legal services manager.

The council receives on average thirteen applications for certificates of lawfulness a year.

Financial Implications

None

Legal Implications

The views of the committee will be brought to the attention of the special council meeting on 15 December.

All town and parish councils have been invited to comment on the proposed changes to the constitution in time for the Council meeting

Recommendation:

The views of the Committee are requested.

Human Rights

Human Rights Act 1998 applies.

Background Papers

West Wiltshire District Council draft amended constitution

Plain English