

**Planning Committee – 21 January 2015**

<b>Title of paper:</b>	<b>Representations by Ward Councillors on Applications before Planning Committee</b>	
<b>Director(s)/ Corporate Director(s):</b>	Head of Development Management and the Acting Corporate Director of Resources	<b>Wards affected:All</b>
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<b>Other colleagues who have provided input:</b>		
<b>Date of consultation with Portfolio Holder(s) (if relevant)</b>	N/A	
<b>Relevant Council Plan Strategic Priority:</b>		
Cutting unemployment by a quarter		<input type="checkbox"/>
Cut crime and anti-social behaviour		<input type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City		<input type="checkbox"/>
Your neighbourhood as clean as the City Centre		<input type="checkbox"/>
Help keep your energy bills down		<input type="checkbox"/>
Good access to public transport		<input type="checkbox"/>
Nottingham has a good mix of housing		<input type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs		X
Nottingham offers a wide range of leisure activities, parks and sporting events		<input type="checkbox"/>
Support early intervention activities		<input type="checkbox"/>
Deliver effective, value for money services to our citizens		X
<b>Summary of issues (including benefits to citizens/service users):</b>		
<p><b>This report clarifies the manner and circumstances in which Ward Councillors may be permitted to address the Planning Committee when it considers applications relating to their ward.</b></p>		
<b>Recommendation(s):</b>		
<b>1</b>	<b>That subject to prior arrangement with the Chair of the Committee, Ward Councillors may address the Committee on Planning Applications which are within their ward and being considered by the Committee. Ward Councillors will not however be permitted to take part in any debate on that application.</b>	
<b>2</b>	<b>Where the Councillor concerned is a member of the Planning Committee they shall withdraw from the Committee room immediately after speaking and prior to any debate on the application. The Councillor will not take part in any consideration of that application at either that or any other meeting of the Planning Committee.</b>	
<b>3</b>	<b>Any such address shall last no more than 5 minutes per Ward Councillor.</b>	
<b>4</b>	<b>Subject to the approval of the Chair more than one ward Councillor may address the Committee on the same application</b>	

## **1. REASONS FOR RECOMMENDATIONS**

This report updates the Committees procedure which was originally adopted in 1995 prior to the implementation of the Localism Act 2011.

## **2. BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

2.1 On 14 September 1995 the Planning Committee resolved that:-

*“City Councillors who were not members of the Planning Committee be given the opportunity to address the Planning and Development Control Committees regarding development control items affecting their wards, subject to prior arrangement with the Chair of the appropriate Committee to be implemented with immediate effect and reviewed at the end of the current municipal year”*

2.2 In considering the matter the then Planning Committee was reminded of the need to balance the involvement of Ward Councillors and the efficient conduct of business especially where, for example, the views of the Ward Councillor were in line with the Council's adopted policy or agreed with the recommendations in the report. This balance was safeguarded by such requests being considered at the discretion of the Chair.

2.3 Over the intervening years the opportunity to address the Committee has been exercised on relatively few occasions and the law in relation to predetermination and predisposition has evolved. Where the opportunity has been exercised the Chair has tended to limit any representations Ward Councillors wish to make to 5 minutes given that applicants and other objectors are not currently afforded any opportunity to address the Committee.

2.4 Some concern has recently been expressed that the 1995 resolution only applied to Ward Councillors who are not members of the Planning Committee. The common law principles around bias and predetermination still apply and as long as the Ward Councillor concerned has not predetermined the application and can properly hear and consider the arguments for and against then that Councillor can still take part in the Committee's debate and determination of the application. However, there may be times when a member of the Committee feels that they have such fixed views on an application within their ward that they should remove themselves from the Committee for consideration of that matter and may wish to address the Committee on behalf of their ward instead.

2.5 The current proposals amend the previous procedure to formalise the practices which have been applied in the past in relation to Ward Councillors who are not members of the Planning Committee. In addition they amend the previous procedures to allow ward councillors who are members of the committee to address the Committee as Ward Councillors in relation to applications within their ward but then to require them to take no part in the debate or decision making processes in relation to that application and to leave the room whilst the application is considered so as to not to place, or appear to place the Committee under undue influence.

## **3. OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

Not to amend current procedures – this potentially disenfranchises ward councillors who are members of the Committee from representing the views of their wards.

**4. FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)**

None

**5. RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)**

- 5.1 The Common law rules in relation to the appearance of bias and predetermination apply to the Committee's consideration of planning applications. Whilst the Localism Act 2011 and case law has determined that a decision may not be vitiated merely because a decision maker has indicated a predisposition towards or against an application, Councillors still have to consider whether they have closed their minds to the arguments for or against an application. Where a Councillor either feels that they may have closed their minds to the arguments or specifically feels that they would prefer to address the Committee on behalf of their constituents they should not take part in the discussion and decision making in respect of that application. The proposed amendments to the Committee's previous procedures formalise the way that have operated in practice and would now allow a member of the Committee to address it in respect of applications within their ward. Whilst these amendments could be open to challenge on the basis that they may give an appearance of bias, that risk is thought to be low.

**6. EQUALITY IMPACT ASSESSMENT**

Has the equality impact been assessed?

Not needed (report does not contain proposals or financial decisions)

No

Yes – Equality Impact Assessment attached

Due regard should be given to the equality implications identified in the EIA.

**7. LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

None

**8. PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

Resolution 43 of Planning Committee 14 September 1995.