

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL - TUESDAY, 13 NOVEMBER 2018

Report Title	PEER CHALLENGE REVIEW - PROGRESS UPDATE
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Purpose of report	To update Council on the progress of improving the planning function following the Planning Peer Challenge Report earlier this year.
Council priorities	Business and Jobs Homes and Communities
Implications:	
Financial/Staff	The action plan and constitutional changes will be delivered within existing resources.
Link to relevant CAT	None identified.
Risk Management	Failure to act on the recommendations of the Peer Challenge Team may adversely affect the reputation of the Council.
Equalities Impact Screening	No impact identified.
Human Rights	None identified.
Transformational Government	This relates to the new ways in which Councils are being asked to deliver their services
Comments of Head of Paid Service	The report is satisfactory.
Comments of Section 151 Officer	The report is satisfactory.
Comments of Monitoring Officer	The report is satisfactory.
Consultees	Planning Peer Challenge Cross-Party Working Group

Background papers	Report to Council on 20 March 2018 Report to Council on 15 May 2018
Recommendations	<p>THAT:</p> <ol style="list-style-type: none"> 1. THE PROGRESS OF REFORMS TO THE PLANNING FUNCTION RECOMMENDED BY THE PLANNING PEER CHALLENGE AND SET OUT IN THE ACTION PLAN BE NOTED; 2. THE COUNCIL AUTHORISES THE MONITORING OFFICER TO MAKE ANY CHANGES TO THE CONSTITUTION NEEDED TO IMPLEMENT THE WORKING GROUP'S RECOMMENDATIONS SET OUT IN PARAGRAPH 3 BELOW

1.0 INTRODUCTION

1.1 Following approval of the recommendations of the Planning Peer Challenge at Council on 20 March 2018 and subsequently the recommendations of the Cross Party Working Group to Council on 15 May 2015, further progress has been made in taking forward the action plan following meetings of the Cross Party Working Group on 11 May and 7 September 2018.

2.0 UPDATE ON COMMITTEE PROCEDURES

2.1 At the Cross Party Working Group on 11 May and 7 September, the following changes to the Planning Committee process were agreed:

- Planning Committee meetings to be held on Tuesdays, where possible, and will commence at 6.30pm
- The Planning Committee briefing meeting will be referred to as the Planning Committee Technical Briefing meeting and will be held on the Wednesday in the week preceding the date of the Planning Committee at 5.30pm.
- Invitees to the Technical Briefing to include Planning Committee members, substitutes and affected ward members.
- At the Technical Briefing, Members of the Planning Committee and any substitutes will determine which applications require a site visit and agree the date, time and location to meet. They will all attend and make their way under their own steam, seeking assistance from colleagues where a lift is required.
- No late changes will be accepted after the update sheet has been published at noon on the day of Planning Committee.
- Alphabetical seating arrangements for Planning Committee to be introduced.
- Planning Committee members will have the ability to question speakers but that this should only take place in exceptional circumstances and any questioning must be directly related to material planning considerations relevant to the case being considered.
- Officer presentations will be kept to a minimum with an informal time limit of 5 minutes.
- All comments from wherever they come, must be directed through the Chair.
- An informal de-brief meeting will be convened the day after the Committee meeting between the relevant planning officers, the Chairman and the Deputy by electronic, skype or other means deemed suitable to all parties.

3.0 WORKING GROUP RECOMMENDED REFINEMENTS TO THE CONSTITUTION

3.1 The Cross Party Working Group has continued to monitor the implementation of the Peer Challenge Team's recommendations. It has observed and discussed several areas where

the agreed principles contained in the Peer Challenge Report could be applied more uniformly, resulting in a more open, transparent and democratic process. Following these discussions, the Working Group recommends that the following procedural improvements are incorporated into the Council's Constitution.

- 3.2 *Officers' and Members' planning applications should no longer automatically go to Planning Committee in all cases. They should only go to Planning Committee if (1) they are recommended for approval and (2) there are material planning objections and/or major impacts.*

The Working Group suggests the following reasons for this change:

- a) The Peer Challenge Team highlighted that the current process means that an application which would be rejected by planning officers (if it were made by a member of the public) gets to go to Planning Committee with the possibility of being approved, just because the applicant is a Member or officer.
- b) Previous discussions at the Working Group, and recommendations to Council, have focused on the question of Relatives' applications. The principle applied was that Relatives of officers and Members should not get a second opportunity to have their applications approved by Planning Committee that members of the public do not get. This "second bite of the cherry" has in the past contributed to the perception that there is bias in the planning process in favour of Members, officers and their relatives.
- c) Planning officers are subject to professional codes of practice and so must be trusted to make decisions in accordance with them, even where Member or Officer colleagues are the applicant. Failure to make decisions properly (e.g. influenced by personal issues with the officer/Member application) would lead to professional and disciplinary implications;
- d) If planning officers incorrectly (or inappropriately) reject an application, the applicant has a right of appeal to the Planning Inspectorate so the applicant has a method of remedy. However, if a rejection is turned into an approval by Planning Committee, there is no recourse for objectors;
- e) It will remove the accusation that, because they have connections with members on Planning Committee, officers/Members can get approvals that the public cannot;
- f) Only changing the process for Relatives (which took place on 15 May 2018) would give rise to accusations that members and officers were aware that they had an unfair procedural advantage (as pointed out by the Peer Challenge) but had not taken any steps to fix the process because they were benefitting from it.

- 3.3 *Every item at Planning Committee should have a recorded vote.*

The Working Group suggests the following reason for this change:

- a) This change will improve the democratic accountability of all decisions made by the Planning Committee and ensure that voting is open and transparent for members of the public present at Planning Committee.

- 3.4 *If a Ward Member has a pecuniary interest in an application, they should not be permitted to speak to that application at Committee. Instead they should nominate an alternate Member of the Council to step in and speak on behalf of their constituents as a stand-in Ward Member.*

The Working Group suggests the following reasons for this change:

- a) It would not be appropriate, nor would it appear right and proper to watching members of the public, that a Member should be able to make use of the right that Ward Members have to address the Planning Committee when that Member has a pecuniary interest in the application.
- b) However, this would result in there being no elected member available to speak to Planning Committee which reduces democratic input into the process. Nominating an alternate Member to speak to Committee will resolve this democratic deficit.

3.5 *In the order of speeches made to Planning Committee by objectors, applicants, Ward Members, etc. the Ward Member should go last.*

The Working Group suggests the following reason for this change:

- a) The Working Group believes that having the voice of the democratically elected Member speaking immediately before the Committee commences its debate will improve the democratic input into the Council's Planning function.

3.6 *If a Ward Member has a pecuniary interest in an application, that application should automatically be referred to the Chair to consider whether there are material planning reasons for calling it in.*

The Working Group suggests the following reason for this change:

- a) The call-in process rightly limits the ability of members to call-in an application to Planning Committee where they have a pecuniary interest in the application. However, under the new call-in process this gives rise to the possibility of no ward member being available to raise material planning issues with the Chair in order to request that the application is called-in. This removes an avenue of democratic representation in the planning process for members of the public. The proposed change will remedy this democratic deficit.

4.0 OTHER MATTERS

4.1 Protocol/guidance notes are currently in the process of being drafted by officers and the Planning Advisory Service for discussion at the meeting of the Cross party Working Group on 9 November 2018 relating to the following:

- A protocol on the pre-application process and member engagement.
- A guidance note for members on pre-determination and for those members who also sit on Parish/Town Councils.

5.0 NEXT STEPS

5.1 The Working Group will continue to meet monthly to monitor and guide the delivery of the action plan. Timescales for the different recommendations and priorities have been agreed by the Working Group and are included in the updated Action Plan which is attached as Appendix 1. An update on progress and implementation of the recommendations of the Peer Challenge will be reported back to Council in six months.