

Committee: Standards

Agenda Item

Date: 7 October 2013

10(a)

Title: CALL IN OF PLANNING APPLICATIONS

**Author: Michael Perry, Assistant Chief Executive
Legal, 01799 510416**

Item for decision

Summary

1. Members wished to review the procedures for calling in planning applications in the light of complaints made against district councillors for alleged breaches of the Code of Conduct arising from a call in. This report is to suggest to members a protocol for call ins to be recommended to Full Council.

Recommendations

2. That members recommend to Full Council the adoption of a protocol to deal with the call in of planning applications.

Financial Implications

3. None.

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. As a local planning authority the council has the duty of determining planning applications for proposed development within the district.
7. Most decisions are taken by officers under delegated powers. Officers may refuse any application which does not accord with the council's planning policies. They may also grant planning permission where the proposal does accord with the council policies unless:-
 - a. the application is a major application within the areas of Great Dunmow, Saffron Walden and Stansted or
 - b. involves the construction of more than 5 dwellings elsewhere or
 - c. a member has called in a planning application for consideration by the committee.

Cases not covered by delegated powers are dealt with by the Planning Committee.

8. The council does not have a formal protocol for dealing with calling in planning applications. It does have a procedure a copy of which appears at appendix A to this report. Although this procedure has been circulated to all members it was apparent during a recent investigation that members (including members of the Planning Committee) may not be fully familiar with its content. The procedure also lacks the status of a formal protocol, a breach of which would of itself amount to a breach of the Code of Conduct.
9. Prior to the preparation of this report I carried out research to ascertain what other councils do with regard to calling in planning applications for determination by the committee. The response was limited but an analysis of the response is appended to this report as appendix B.
10. A suggested draft protocol dealing with the procedure for call ins is attached at appendix C for members consideration.

Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
The council does not adopt a formal protocol for dealing with call ins.	2, bearing in mind that under the council's Code of Conduct a breach of a protocol is of itself a breach	3, without clear guidelines there may be further allegations of a breach of the Code of	An appropriate protocol is adopted.

	of the Code of Conduct this may deter some members for agreeing to accept a protocol.	Conduct which could lead the council to suffer reputational damage.	
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Call-in process

Uttlesford is the local planning authority and the decision making process is laid down by legislation. Most planning applications are decided by the Assistant Director Planning and Building Control (Andrew Taylor) under delegated powers. The current delegation agreement is contained within the Members Handbook. The remaining applications are decided by the Planning Committee which meets every 4 weeks. Officers prepare a report and make a recommendation – the Committee then makes the final decision on whether to agree with the officer's recommendation or whether to make a different decision (under guidance from both planning officers and the Council's legal department).

When an application is received it is registered and according to its type is either classified as "delegated" or "committee". Councillors can request that a delegated application is heard by the Planning Committee. Councillors are required to give a written planning reason for the call in. Any such request has to be received by the planning department within 5 weeks (35 days) of the validation date of that application.

You will be aware of applications from the weekly list of planning applications and from the specific ward alert which you are sent via email when a new application is validated in your ward. You can view all the plans and submitted documents on the website. If you wish an application to be heard by the committee then you should email nbrown@uttlesford.gov.uk or via letter (which must be received before the deadline).

When making this written request please provide a planning reason for the request and whether your request depends on the officers recommendation, for example if your call-in request is only if the recommendation is for approval please say so. This prevents unnecessary delays in decision making. When a request is received it is logged.

You may be approached by applicants or the Parish/Town Council asking you to call in a specific application. However it is your decision and you must be able to explain why. The officer's committee report will state that the application was called in, by whom and the stated reason. Your call in email/letter will form part of the public file.

APPENDIX B

RESPONSES TO ENQUIRY RE PLANNING CALL-IN

Council	Question	Response
Authority A	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Ward members and the portfolio holder for planning only
	3. Are reasons required for call in?	Yes
	4. If so do they need to be planning reasons?	No, a call-in is because the application raises issues of local importance
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	N/A
Authority B	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Any councillor or where the officer recommendation does not accord with a representation from a parish council
	3. Are reasons required for call in?	Yes
	4. If so do they need to be planning reasons?	Planning reasons unless PC disagreement
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	No response

Authority C	1. Do you have a formal procedure for call in?	Yes (under review)
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Ward members or 5 representations from the public contrary to officer recommendation
	3. Are reasons required for call in?	No
	4. If so do they need to be planning reasons?	No
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	N/A
Authority D	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Ward member/ GLA member/MP only where the officer recommendation is disagreed with plus recognised Residents Association/Conservation Area Advisory Panel/12 local residents or businesses objecting on similar grounds only where the officer recommendation is approval
	3. Are reasons required for call in?	Yes
	4. If so do they need to be planning reasons?	Yes
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	Yes

Authority E	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Ward members, chairman and vice-chairman of DC Committee, portfolio holder for planning and regeneration.
	3. Are reasons required for call in?	Yes
	4. If so do they need to be planning reasons?	Material planning reasons
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	No response
Authority F	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Any member
	3. Are reasons required for call in?	Yes
	4. If so do they need to be planning reasons?	No
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	Call-in requires chair approval

Authority G	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Any member
	3. Are reasons required for call in?	Technically yes but not enforced
	4. If so do they need to be planning reasons?	Ditto
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	Chairman has discretionary power to refuse call-in.
Authority H	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called in by:- a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance?	Any member
	3. Are reasons required for call in?	Yes
	4. If so do they need to be planning reasons?	Yes and these are given on the report
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	Unless there are 2 requests for call in if officers are not satisfied that the reasons are planning reasons the chairman has to decide whether it goes to committee
Authority I	1. Do you have a formal procedure for call in?	Yes
	2. Can an application be called	Any member

	<p>in by:-</p> <ol style="list-style-type: none"> a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance? 	
	3. Are reasons required for call in?	No (did used to require reasons but had concerns re predetermination)
	4. If so do they need to be planning reasons?	N/A
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	N/A
Authority J	1. Do you have a formal procedure for call in?	Yes
	<p>2. Can an application be called in by:-</p> <ol style="list-style-type: none"> a. Members of the planning committee only b. Ward members only c. Any member of the council d. In any other circumstance? 	Any member
	3. Are reasons required for call in?	No (did used to require reasons but had concerns re predetermination)
	4. If so do they need to be planning reasons?	N/A
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	N/A
Authority K	1. Do you have a formal procedure for call in?	Yes
	<p>2. Can an application be called in by:-</p> <ol style="list-style-type: none"> a. Members of the planning committee only b. Ward members only 	Ward member plus one other member and approved by chairman or any five members. If one of the members calling in is a member of the planning committee and declares a

	<p>c. Any member of the council</p> <p>d. In any other circumstance?</p>	prejudicial interest (presumably now means pecuniary) then the matter is withdrawn from the agenda and dealt with under delegated powers.
	3. Are reasons required for call in?	Yes
	4. If so do they need to be planning reasons?	Yes
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	No
Authority L	1. Do you have a formal procedure for call in?	Yes
	<p>2. Can an application be called in by:-</p> <p>a. Members of the planning committee only</p> <p>b. Ward members only</p> <p>c. Any member of the council</p> <p>d. In any other circumstance?</p>	Ward members only
	3. Are reasons required for call in?	Yes and an indication as to whether it is being called in if the recommendation is for approval or refusal but not both
	4. If so do they need to be planning reasons?	Yes
	5. If so (again) can the call in be rejected if the reasons do not constitute planning reasons?	Chairman to resolve dispute as to whether reasons are planning reasons.

DRAFT PROTOCOL FOR CALLING IN PLANNING APPLICATIONS

1. Introduction

- 1.1. Uttlesford District Council is the local planning authority for the district of Uttlesford. As such it is responsible for taking decisions on planning applications within the District. Under the Town and Country Planning Act 1990 decisions on planning applications must be taken in accordance with the development plan unless material planning considerations indicate otherwise.
- 1.2. Most applications are dealt with by officers under delegated powers. Officers have power to refuse any applications which are not in accordance with the development plan and have delegated authority to grant planning permission in specified cases where the proposed development does accord with the development plan. The full scope of the delegated powers can be found in the Members Handbook
- 1.3. This protocol sets out the procedures to be followed when a member wishes an application for planning permission which can be dealt with by officers under delegated powers to be considered by the Planning Committee (“calling in an application”)
- 1.4 It is recommended that members considering calling in an application should seek advice of planning officers before doing so.

2. Procedure for calling in an application

- 2.1. Any member of the council may call in an application which would fall to be dealt with by officers under delegated powers regardless of where the application site is situated within the District.
- 2.2. If a member is considering calling in an application for a site in a ward in respect of which that member is not a ward member then before calling in the application the member shall inform the member or members for that ward of the intention to do so
- 2.3. A request for a planning application to be called in must be:-
 - 2.3.1. In writing (including e-mail)

- 2.3.2. Made within 5 weeks of the validation date (which may be ascertained from the Council's website)
- 2.3.3. State if the application is to be called in if the officer recommendation is for approval or refusal (but not both)
- 2.3.4. Give valid planning reasons for requesting that the application be called in.

3. Invalid call-ins

- 3.1. A request for a call-in may be rejected by the Assistant Director – Planning and Building Control if he is not satisfied that the reasons given for the call-in are planning reasons
- 3.2. An application should not be called in merely because it is controversial. Applications should only be called in where there are planning reasons for disagreeing with the officer recommendation
- 3.3. Members should not call in an application because they are requested to do so by an applicant, an objector or a parish or town council unless the member concerned is satisfied that there are planning reasons for disagreeing with the officer recommendation
- 3.4. Members should not call in an application made by or opposed by a related person (as defined by the Code of Conduct of Uttlesford District Council) under any circumstances