

## Bath & North East Somerset Council

MEETING	Planning Committee
MEETING DATE:	23 September 2020
TITLE:	Proposal for member call-in period to be extended to 2 days after the closure of the public consultation period
WARD:	All
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> Appendix 1 - Weblink to the latest published Planning Performance report July 2020 Appendix 2 – Feedback from consultation with Agents' Forum	

### 1 THE ISSUE

- 1.1 The current consultation period for members to call an application to committee is 5 weeks. Where applications are extended in timescale or reconsulted on this extends the public consultation but does not allow members further time to consider the application and request a call in to committee. Members would like to be able to call applications to committee up to 2 days after the public consultation period closes so they can take into consideration all responses from members of the public and statutory consultations after they have been received.

### 2 RECOMMENDATION

**The Committee is asked to either;**

- 2.1 Proposal 1 – to retain the current call in period of 5 weeks after an application is published on the weekly list**

**OR**

- 2.2 Proposal 2 – change the scheme of delegation to allow members to call applications to committee up to 2 days after the closure of the public consultation period**

### 3 THE REPORT

#### 3.1 Definitions and the law

- 'Consultation period' in this instance refers to the statutory publicity period as defined by section 15 of the Development Management Procedure Order (DMPO) which ends on the latest date of either site notice display, neighbour notification period and/or advert in the local newspaper.
- All application types received are published on the Weekly List and the website but some types like Certificates of Lawful Use, condition discharges or Prior Approvals for example, cannot be called in.
- National policy is to maximise delegated decision making. This reduces delays in the planning process, creates certainty for developers and is as transparent and robust as a committee decision
- Planning legislation is designed to be transparent and open, with everything published and available except private or sensitive personal information
- Officers undertake other consultations on some applications with council departments or specialists such as Parks or Highways

#### 3.2 Current Situation

- Members receive a Weekly List by email every Monday listing all the new applications which are now available for view and comment on the website. They are given a specific date for call-in which is 5 weeks from publication, unless the application is a type that cannot by law be called to committee. Member call-in requests must be supported by planning reasons or they cannot be accepted. The Chair and Deputy Chair have the final decision as to whether an application will go to committee (unless they are required to go to committee by other parts of the scheme, as identified).

#### 3.3 Implications of proposed change to 2 days after the closure of the public consultation period are;

##### For Public Information / Transparency

- The Weekly list will no longer show a call-in deadline date and there will be no mechanism to publish member call-in deadlines because dates will be different depending on the application, and they will change if a re-consultation is done
- It will not be practical to advise the public when the call-in deadline is for each application is due, because each one will have to be calculated manually once any possible re-consultations are completed and this date could change multiple times if there are revisions to the proposals (there are 100's of applications 'pending consideration' at any time) which makes the process less transparent

##### For members

- More time will be available to call-in applications and members will be able to see all comments made by members of the public and the responses of all statutory consultees before deciding whether to call an application to committee
- The Weekly list will no longer show a call-in deadline date and Members will need to look at each application on the website to find out when the consultation period

is due to close and add 2 working days to the date shown and the date will change if a re-consultation is done

- Members are advised to sign up for email notifications which will notify them 2 days **before** a consultation period is due to close, which may help to ensure call in requests are done in time

For officers

- The risk of late call-in (compared to now) means that more applications will not be determined within standard timescales and performance may be affected – MHCLG monitor the Council's application performance levels
- More queries from applicants or members about member call-in deadlines
- May lead to more call-ins for officers to manage (increased workload) and more conversations with applicants who may be unhappy about the lack of certainty on decision timescales

For committee

- Likely to lead to more applications being considered by Planning Committee. Currently committee considers an average of 8 applications per month with meetings usually lasting from 2.00 to 5.00pm. More applications means committee would be sitting for longer each month

For applicants, developers, agents & the interested public

- Less certainty of applications being determined within timescales with member call-ins happening later in the process and then having to be scheduled onto the next committee meeting (monthly)
- Less transparency of the planning process with no clarity on the call-in deadline for individual applications
- It will be confusing for those who do not understand the call-in process (and planning generally)

For the Council

- More call-ins would be contrary to government advice which seeks to ensure as many applications as possible are delegated which could increase the perception that the planning process is overly bureaucratic and cumbersome
- Concern may be raised by interested parties that the council is not supporting Recovery if decision timeframes can be delayed late in the process which can adversely affect developer timescales
- Having no clear date or definition for the deadline by which applications can be called to Planning Committee could be seen as not in the spirit of the (deliberately) transparent planning legislation which is designed to be open and available to the public and could lead to criticism
- Risk of being unable to persuade developers to enter into Planning Performance Agreements (reduced income stream), due to the lack of certainty around timescales
- Potential for more member overturns of officer recommendations which could result additional costs associated with defending appeals including increased risk of costs being awarded against the Council where decisions are found to be unreasonable
- B&NES is a high performing authority (see data below) and this change could impact the excellent progress we have made
- It is possible that B&NES will never be able to publish the member call in deadline for each application. And even if it were technically possible, there will be a cost implication to any IT solution

### 3.4 Recommendations

- Officers recommend keeping the current scheme of delegation in order to retain clarity for members and the public what the deadline for member call in is on all applications

## 4 STATUTORY CONSIDERATIONS

- 4.1 This is a change to the Scheme of Delegation and as such can only be made by Full Council and the Planning Committee's views will inform the Council report.

## 5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 There will likely be increased workload for officers dealing with more queries and member call ins (difficult to quantify). More overturns of officer recommendations could lead to more appeals and more costs for the Council.

## 6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

## 7 EQUALITIES

- 7.1 There will be no equalities impacts.

## 8 CLIMATE CHANGE

- 8.1 With the potential for increased applications coming to committee, there may be more members of the public travelling to attend committee meetings, assuming the Council returns to face to face rather than virtual meetings.

## 9 OTHER OPTIONS CONSIDERED

- 9.1 None.

## 10 CONSULTATION

- 10.1 The Agents Forum is a mailing list of about 50 agents. Officers hold meetings with them quarterly. The Forum were emailed and asked for their response to the proposals.
- 10.2 7 replies were received, 3 in favour of the proposal and 3 against and 1 unclear
- 10.3 A benchmarking exercise was done to understand how long other Councils give members to call applications to committee.

Council	Member call in period	Automatic referrals to committee
Mendip District Council	28 days	None. Chair and Vice

		Chair get final say
Bristol City Council	The written request must be submitted and received within 7 days of the consultation deadline (it doesn't apply to any re-consultation)	If referred correctly this cannot be overridden
South Gloucs Council	The written request must be submitted and received within 5 clear working days of the issue of the Circulated Schedule of proposed decisions	None. Chair and Vice Chair get final say
North Somerset Council	Not available	

<b>Contact person</b>	Sarah Jefferies 01225 396556, Sarah James 01225 477577
<b>Background papers</b>	Appendix 1 - latest published planning performance report for committee (weblink) Appendix 2 – feedback from consultation with Agents Forum
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## **Appendix 1**

See the latest published Planning Performance Report with data up to and including June 2020

<https://democracy.bathnes.gov.uk/documents/s61979/Quarterly%20Performance%20Report%20-%20April%20to%20June%202020.pdf>

Specific highlights to look for are the delegation rate of 97% and the percentage of applications decided within timescales on Page 2

## Appendix 2

### Feedback from Agents on consultation on proposed change to Scheme of Delegation

I think this is logical and a very good idea. The key point is that councillors often need to see the level of local interest in an application before deciding whether they wish to request a planning board decision and this can only realistically be done after the consultation period has ended, or very near to the end of the consultation period. As an applicant or an agent, you can obviously lobby a ward councillor very early in the process; however, objections at that juncture are not known and that means they cannot be discussed. Often councillors want to know an applicant or agent response to objections raised so they can make a balanced decision as whether to request a planning committee decision.

Further, if the consultation period is extended, then so should the timescales for councillors responding i.e. 2 days after the end of the consultation period, to conclude any extension to the consultation period. This is relevant as it enables councillors to take into account all relevant information and consultation responses whether statutory responses, or responses from residents.

By implementing this timescale, it will avoid a number of applications being resubmitted and often using the free resubmission option as a result of applicants considering a second chance, may give a better opportunity of a planning committee decision given that all factors are then known, ultimately saving the council free resubmission fees.

I trust these comments assist and I would ask they are drawn to the attention of councillors at the respective committee meetings where this matter is to be considered..

For Wright Consult Ltd

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Please note that I am not in favour of any additional delay to the process .

Jeff Parsons Building Surveyors Radstock

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We share the concerns that officers have articulated over the complexity of the suggested amendment to the committee call-in scheme. As drafted, we oppose the changes.

This is not to say that the existing scheme could not be improved. We would welcome the opportunity to engage further, if possible.

Chris Beaver  
Director

PlanningSphere Limited

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I am in support of maximum intervention by Members, or whatever they consider appropriate.

Eric Wallace  
Wallace Wheating Limited

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I appreciate that the Development Control Committee agenda needs to be organised well in advance, but from an agents point of view, and probably also an objectors, we don't know whether to press a local councillor to request a committee decision until we know what the PO's recommendation is going to be. If the recommendation (even if it's not fully agreed by the manager) could somehow be made public with all the necessary caveats etc. within say 4 weeks of the registration, and a week before the call-in deadline, then we could advise clients accordingly.

I hope this is helpful input.

Kind regards

John Blake

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I think it is a very good idea to change the current procedure to the new proposal of 2 days after the closure of public consultation/publicity period. Personally I have been advocating this type of amendment to the system and have highlighted that the time-frame was just not working for Planning Agents in our forums so I totally support it.

I think the Registration Department will have to make it clear on the 'import date' page the predicted date for Councillor call in so that everyone is clear when the last date is official and that appears to be the proposal.

So yes, I support this change.

John White Bsc, M.I.C.E

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I agree wholeheartedly with the following commentary in the Report about the implications for Agents & Applicants:

- Less certainty of applications being determined within timescales with potential late call-ins
- Less transparency of the planning process with no clarity on the call-in deadline for individual applications
- It will be confusing for those who do not understand the call-in process (and planning generally)

I strongly agree with the following Recommendation at the end of the Report.

To retain the current call in period deadline to support transparency and ease of explanation with the public and clarity for all.

Thank you for letting me have the opportunity to comment.

Chris Dance