

PART 3 – RESPONSIBILITY AND FUNCTIONS

TERMS OF REFERENCE – AREA PLANNING COMMITTEE

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1. Terms of Reference

To exercise on behalf of the Council the following functions:

- (A) The making of decisions or representations on planning and other applications falling to be considered by the District Council as a Local Planning Authority -
- (B) The making of decisions on enforcement and related planning control matters falling to be considered by the District Council as Local Planning Authority, save in those cases where such decisions are delegated to the Assistant Director – Planning and Implementation:

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COMMITTEE	AREA PLANNING
MEMBERSHIP	Area-based – see below
LEAD OFFICER	Assistant Director - Planning and Implementation
OFFICERS / UNITS PRIMARILY REPORTING	Head of Service: Development Management and Building Control
SUB-COMMITTEE	None

There are three Area Planning Committees whose memberships comprise the Ward Members for the following Planning areas of the Maldon District:

- **North-Western:**
Great Totham, Purleigh, Tollesbury, Tolleshunt D'Arcy, Wickham Bishops and Woodham Wards
- **Central:**
Heybridge East, Heybridge West, Maldon North, Maldon South, Maldon East and Maldon West Wards
- **South-Eastern:**
Althorne, Burnham-on Crouch North, Burnham-on-Crouch South, Mayland, Southminster and Tillingham Wards

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1. TERMS OF REFERENCE

To exercise on behalf of the Council the following functions:

(A) The making of decisions or representations on planning and other applications falling to be considered by the District Council as a Local Planning Authority -

1. For residential development where the number of dwellings is nine or more, or where the number of dwellings is not given, the application site has an area of 0.2 hectares or more.
2. For all other development where the floor space to be built, or a change of use of a building is proposed for 1,000 sq. metres or more.
3. Where a Ward Member requests that an application in their Ward is referred to the Area Committee for determination in accordance with **ANNEXE A**.
4. Where proposals which, in the opinion of the Assistant Director – Planning and Implementation in consultation with the Chairperson of the appropriate Area Committee or the Chairperson of the District Planning Committee are of significant public interest, would have a significant impact on the environment, or should otherwise be referred to Members.
5. Where proposals have been advertised as departures under the Town and Country Planning (Development Management Procedure) Order 2010 and where the Officers' recommendation is that permission should be granted. Except where the principle of the development has already been approved through an extant planning permission.
6. Where proposals require the submission of or are accompanied by an environmental statement in accordance with the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988.
7. Where proposals require a planning obligation, or involve the variation of a planning obligation, under Section 106 of the Town and Country Planning Act 1990 to secure the payment of monies to the Council.
8. Where an application has been resubmitted following refusal by an Area Committee contrary to Officers recommendation.
9. Applications submitted by Members and Officers of the Council. This includes:
 - Spouses and Partners of a Member or Officer;
 - Where it is clear that an application has been submitted on behalf of a Member or Officer, e.g. by an agent or other immediate family member;
 - Where it is clear from the application and any subsequent discussion that a Member or Officer has a close association with the applicant such as might prejudice judgement of the public interest;
 - In the interests of openness and transparency, the Assistant Director – Planning and Implementation in consultation with the Monitoring Officer shall have discretion in the matter of referring an application to a committee instead of determining it under delegated powers.
10. Applications in respect of the Council's own development proposals or development on Council land.

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(B) The making of decisions on enforcement and related planning control matters falling to be considered by the District Council as Local Planning Authority, save in those cases where such decisions are delegated to the Assistant Director – Planning and Implementation:

1. To serve a Stop Notice under Section 183 of the Town and Country Planning Act 1990.
2. To seek injunctions under Section 187B or to commence any actions under Sections 94 (completion notices), 97 (revocation and modification orders) and 102 (discontinuance orders) of the 1990 Act.
3. To make and confirm directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, including the consideration of any representations received.
4. To make and confirm Orders involving public rights of way including the consideration of any representations received.
5. The making and confirmation of Tree Preservation Orders, and the consideration of any representations or objections received.

Provisos:

1. If any Area Planning Committee considers that a matter before it should be considered by either the District Planning Committee or the Council, it may refer the matter to that Committee or the Council for determination save for those matters on which they are required to report to the Council.
2. The Assistant Director - Planning and Implementation has the discretion to refer to the District Planning Committee applications where a major policy decision is involved. In assessing whether a major policy decision is to be made the Assistant Director - Planning and Implementation shall have regard to the scale of development, whether it involves a major departure from policy and whether the application is the subject of widespread public interest.
3. Proposals requiring reference to the Secretary of State for Transport Local Government and the Regions under the terms of the direction at Annex 1 of the Environment Circular 07/99 shall be referred to the District Planning Committee for determination.
4. Save for those cases described in 5 below in the event of a planning or related application falling to be determined by an Area Planning Committee but, due to the application site area, would involve more than one Committee, the following procedure shall apply:
 - (a) The application will be scheduled for determination by the District Planning Committee;
 - (b) In order to avoid undue delay in determination of the application a special meeting of the District Planning Committee will be arranged.

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5. Meetings of the District Planning Committee will be convened and held for the sole purpose of considering and determining all applications for development of strategic interest as follows:

Development of Strategic Interest:

- Any development proposal which directly relates to one of the Garden Suburbs or Strategic Allocations (sites S2(a) – (k)) included within Policy S2 the Local Development Plan (LDP).
- Any residential or mixed-use development proposal which includes provision for 75 dwellings or more.
- Any large-scale renewable and low carbon energy projects, including:
 - Any wind energy proposals whose output capacity is 1Mw or more or which proposes three or more turbines of 30m or more.
 - Any Solar energy proposals whose output capacity is 1Mw or more or which proposes 4,000 or more solar panels.
 - Energy from Waste Scheme of 1MW capacity or more.
- Any development proposal which directly relates to identified *new* employment sites allocated by Policy E1 of the LDP.
- Any retail development of 1,000 square meters or more which is proposed to be beyond existing town centres as defined by Policy E2 of the LDP.
- Any proposals for a new Community Hospital or similar healthcare facility to serve the needs of the District as defined by Policy I2 of the LDP.

For the purpose of this proviso 5 “applications for development of strategic interest” shall include all applications establishing or varying the principle of development but shall not include variations to conditions or the approval of reserved matters unless in accordance with a decision of the Council or at the discretion of the Assistant Director - Planning and Implementation. In all other respects, the existing provisions of the Scheme of Delegation will apply.

6. A development proposal not falling within the categories set out in paragraph 5 above may also be referred to a meeting of District Planning Committee at the discretion of the Assistant Director - Planning and Implementation in consultation with the Chairperson of the District Planning Committee and the relevant Area Planning Committee where the proposal is considered to be of particular strategic importance and interest to the District.

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2. OPERATING PROTOCOL

- 1 The Committee will meet in accordance with arrangements determined by the Council.
- 2 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply, in particular Procedure Rule 13(1) which prevents a member of a Planning Committee from voting in connection with the determination of a planning application or related matter unless they have been present for the whole of the consideration at the meeting or has undergone fundamental induction training.
- 3 If, after debate, the Committee is minded to refuse an application contrary to the recommendation of Officers to approve and without having moved to a vote, then (unless it is agreed upon the advice of Officers that no useful purpose would be served) any further consideration **will** be deferred to enable Officers to consider all relevant implications of that proposed decision and report back to the Committee. This is known as the Constitutional Brake.
- 4 The Council has adopted the concept of members of Planning Committees being given information briefings / presentations by Officers on complex / technical issues arising from certain planning applications ahead of their formal consideration and determination. The guidelines set out **ANNEXE B** will be followed.

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ANNEXE A

Determination of Planning Applications – Member Call-In

- (i) The effect of this facility is to enable a Member to request that an application is referred to an Area Planning Committee for determination instead of being determined under powers delegated to the Assistant Director - Planning and Implementation.
- (ii) A Member may 'call in' an application from their Ward or another Ward within the following areas:

Central Area Planning Committee:

Call-in area 1 – Maldon North, South, East, West Wards

Call-in area 2 – Heybridge East and West Wards

South Eastern Area Planning Committee:

Call-in area 1 – Burnham-on-Crouch North and South Wards

Call-in area 2 – Althorne, Mayland, Southminster and Tillingham Wards

North Western Area Planning Committee:

Call-in area 1 – Tollesbury, Tolleshunt D'Arcy, Great Totham Wards

Call-in area 2 – Purleigh, Wickham Bishops and Woodham Wards

- (iii) Requests must be made in writing to the dedicated email address – and within 28 days of the date an application appears on a published Weekly List produced by Planning Services. When an application is amended, and the Parish or Town Council is re-consulted, requests can be made in writing to the dedicated email address provided it is within the consultation period provided to the parish or town Council.
- (iv) A Member must provide a reason based on planning policy to support a call-in request.
- (v) A Member is under no obligation to invoke this provision on the basis of any public representation or request they may have received, including town or parish council, but may wish to take this into consideration, as he or she may also wish to do when reviewing the request as set out below.
- (vi) Where a Member's request is the only reason for an application being referred to the Area Committee, the Assistant Director - Planning and Implementation will notify the Member of their recommendation on the application following which the Member may withdraw their request.
- (vii) Due to the limited time available all responses to Certificates of Lawful Use for Proposed Development and prior notifications, including those in relation to agricultural buildings, telecommunications, hedgerows, trees in conservation areas and demolition are delegated to the Assistant Director - Planning and Implementation unless they consider that they should be referred to the appropriate Area Planning Committee, time permitting.

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ANNEXE B

INFORMAL TECHNICAL BRIEFINGS / PRESENTATIONS ON PLANNING APPLICATIONS

Operating Guidelines

For certain complex and/or major applications, where there are difficult or technical issues such as to consider, it may be appropriate to hold informal briefings for members before an application comes before a committee for formal consideration and determination.

Following publication of the agenda containing the report and Officer recommendation on the particular application, the Assistant Director - Planning and Implementation will decide whether an informal briefing is required to be held, provided the following guidelines are adhered to:-

- Members should understand that an informal briefing is distinct from the Committee meeting and therefore no decisions will be taken at the briefing.
- The informal briefing is to provide an opportunity for Members to receive information and ask questions to help them understand more about the proposal before formal consideration of the applications at the Committee meeting.
- The informal briefing is not a forum for debate or for stating opinions about the development and certainly not for Members to indicate how they will vote at the Committee meeting.
- Whilst Members can begin to form views about the proposed, it is important that they seek to avoid reaching a firm view or decide how they will vote in advance of the Committee meeting since this will mean that they have pre-determined the application. In that event, they will have compromised their involvement in the subsequent Committee meeting. It is essential that an open mind is kept in order to hear all the information presented, and discussion held, at the Committee meeting itself.
- The informal briefing will not be held in public, and only those Members of the determining Committee and relevant Officers will be present. Although attendance by Members will be encouraged, non-attendance at informal briefings will not prevent their subsequent participation in deciding an application when it comes before the Committee. Nothing less than is presented to the briefing will be presented to the Committee meeting.
- A record will be kept of the fact that the meeting took place and who attended the meeting but formal minutes or notes of the meeting will not be made or published.