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Borough Council – 24 May 2011

FUTURE OF AREA PLANNING COMMITTEES

Report by: Michael Jordan – Director of Environment

Summary

The purpose of the report is to improve the way in which the Council deals with small planning applications and enforcement cases, giving a clearer role for ward members whilst retaining professional standards.

It proposes the abolition of the five area planning committees, and the redistribution of their planning powers to Sustainable Development Committee in consultation with ward members and the introduction of an enforcement sub-committee.

It proposes the continuation of the area monitoring committees in their present form to assume some of the functions currently carried out by the Area Planning Committees until new area arrangements are established which give effect to the Council's ambitions for greater community engagement.

It proposes that a review of the new arrangements is undertaken in 12 months.

The proposals provide a saving of £100,000, identified as COR5 in the Borough Council report of 1st March 2011, by reducing expenditure on Area Committees.

1.0 RECOMMENDATION

The recommendation is that:

- 1.1 With effect from 24 May 2011, the Area (Planning) Committees are not re-established and that Borough Council agrees the revised terms of reference for the Area (Monitoring) Committees (Appendix 1) and the revised terms of reference for the Sustainable Development Committee ("SDC") (Appendix 2), the creation of a new sub-committee of SDC to deal with borough-wide enforcement activity and consequential amendments to the Scheme of Delegation.
- 1.2 The Council's Constitution is amended with effect from 24 May 2011 to give effect to the proposals set out in this report, as specified in Appendix 3.

2.0 BACKGROUND

- 2.1 One of the budget proposals agreed by Borough Council on March 1st was to achieve a saving of £100,000 by reducing the number of Committees (COR 5). This paper seeks to deliver the bulk of these savings through the abolition of the Area Planning Committees.

- 2.2 When considering the future of the Area Committees, it is also important to consider the context set by the present Government's Localism Bill going through Parliament. At face value it would be easy to assume that there must be a conflict between the removal of existing area based committees and the purposes of the Government's Localism Bill. However, this is not the case. There is nothing in the Localism Bill as currently drafted to suggest that area planning committees should be created where they do not already exist or preserved where they do.
- 2.3 The main decentralising intentions of the Bill are:
- **From the regions to the local authority**, at least outside London, with the abolition of the Regional Development Agencies and their regional spatial strategies leaving individual authorities to decide, for example, on house building targets; and
 - **From local authorities to local groupings and individuals** in small neighbourhood areas.
- 2.4 There appears to be nothing in the Bill, or in the commentaries on it, which has anything to say about the merits of area committees or which advocates the devolution of power within the local authority itself from the commonly found borough-wide development control or planning committee to a series of area committees. Furthermore, the Government's ambitions to take some forms of development out of the control process altogether, through neighbourhood development orders, would if implemented reduce the workload and thus the case for retaining our area planning committees

3.0 CURRENT POSITION

- 3.1 There are currently 5 Area Planning Committees, which meet monthly, and have planning responsibility for:
- determining minor planning applications
 - authorising planning enforcement action.
 - confirming Tree Preservation Orders to which objections have been received.
 - considering and commenting on planning briefs and major planning applications within their area.
 - commenting on the Unitary Development Plan (as was), and other Planning Policy Guidance Notes and Supplementary Planning Guidance Notes.
- 3.2 These 5 area planning committees in effect serve as sub-committees of the Sustainable Development Committee, which itself determines major applications across the borough and delegates the determination of the remaining caseload.
- 3.3 Hounslow is unique as a planning authority in London in requiring no less than 6 different planning committees, all of which need to meet each month, in order to discharge the Council's duties. These arrangements come at a very considerable administrative expense given the task of arranging venues, preparing agendas and presenting reports, at a time when the Council is seeking efficiency savings from all areas of its business. The Borough Council has agreed to seek £100,000 committee

savings in 2011-12 and this can be achieved through a streamlining of our planning committee arrangements.

- 3.4 The current arrangements also require all 60 councillors to serve on at least one of the six committees and therefore gives each councillor the difficult task of reconciling their quasi-judicial duties as committee members with the representative and advocacy role that they seek to undertake as ward members. In all other London boroughs the decision has been taken to require only a proportion of the Council to sit on a planning committee where volunteers can build up a suitable degree of expertise, handling cases throughout the borough. The majority of councillors in these councils (normally two thirds) are freed from this duty and are at liberty to make representations to the committee on their constituents' behalf. This split of duties is of course already the norm in Hounslow's licensing arrangements and is uncontentious.

4.0 **PROPOSALS**

- 4.1 Taken together, the proposals outlined in the following sections would ensure that the planning duties currently discharged by the Area Planning Committees would be satisfactorily and more efficiently discharged. This would be achieved by extending the scope and powers of Sustainable Development Committee and giving a degree of additional delegation to Senior Planning Officers to determine minor applications with appropriate safeguarding arrangements built in. This would be achieved by the requirement to consult with the Chair of Sustainable Development Committee on some matters before delegated decisions are taken.
- 4.2 Historically, such proposed amendments to the Constitution have been tabled at a meeting of full Council and then determined at a subsequent meeting of full Council. However, in order to give effect to the proposed changes forthwith and to minimise bureaucracy, it is proposed that the proposed amendments to the Constitution be given immediate effect and if approved, come into force at the meeting of full Council on 24 May 2011.
- 4.3 The detailed amendments are set out in Appendix 3 which was not available at the time of publication and shall follow. It is proposed that a review of the new arrangements is undertaken in 12 months time.

4.4 **Planning Applications**

- 4.4.1 In future, those planning applications which require a committee decision would be decided by a single committee, the Sustainable Development Committee. The Sustainable Development Committee would handle all of its present workload, but in addition its powers would be extended to include the most substantial of the applications currently determined at the area committees. This would be achieved by lowering the current threshold from 10 residential units or 1000m² of commercial floor space to 5 units and 500m² respectively.
- 4.4.2 All applications below this threshold would normally be determined by senior officers under delegated powers but subject to consultation with ward members as detailed below.
- 4.4.3 An e-mailed list of those applications (with links to the documentation) which are likely to be recommended for approval and where objections have been received would be

sent to all Members each week, on an agreed date, to alert them to imminent decisions. Members would have 5 working days to express a contrary view about any recommendation in writing or by email, citing reasonable planning grounds and officers will be available to discuss the applications on request. The Chair of the Sustainable Development Committee will then determine whether there are sufficient grounds for it to be determined by the Sustainable Development Committee.

- 4.4.4 The number of requests made by or to the Chair of the Sustainable Development Committee for the Committee to determine a decision will be recorded and a process established for this to be done and the Chair informed of requests.
- 4.4.5 The evidence suggests that these changes would not have any material effect on the outcome of planning applications. During the period from January 2007 and June 2010 approximately 90% of all planning decisions were determined under delegated powers. In this period the remaining 10% (596 applications) were considered by the Area Planning Committees, and of these 543 (91%) were determined in line with officer recommendation. Of these 596 applications, 564 were at committee because they had been the subject of at least one objection; 542 (96%) of these were determined in line with officer recommendation.
- 4.4.6 It is important that individual members and area committees can continue to contribute and comment on the locally significant and major applications affecting their area. It is proposed that “for comment” reports on these applications continue to be sent to local councillors at their area monitoring meetings and that the area’s comments are forwarded to Sustainable Development Committee as now. Given the proposed lower threshold proposed, local councillors in their area monitoring meetings would be commenting on every application involving five or more residential units and over 500sq m of commercial development. Members will be expected to concentrate on applications in their own wards and those which are of concern to them or their constituents. Members will have access to application paperwork in these cases.
- 4.4.7 This is an important part of the planning process as local residents are interested in large proposals for their area and developers want a degree of certainty to know whether their application is likely to be approved or not. We are currently operating a system where developers submit proposals to area committees as part of Planning Performance Agreements (PPAs). It is right that at an early stage developers have the opportunity to submit their proposals to local members. Members should have the opportunity to comment on proposals at an early stage, to allow for the resolution of any issues. The aim of this approach is to work with members, communities and developers so that by the time an application is considered by the Sustainable Development Committee it should be acceptable at least in principle. The proposal is for all major applications as newly defined to go to area monitoring committees for comments.
- 4.4.8 Arrangements will be made for any applications caught between the current and new systems: eg applications which have previously been to Area Committees and deferred will now go to the Sustainable Development Committee with an explanation of the Area Committees deferral.

4.5 Enforcement

- 4.5.1 The current position is that Member authority is needed to authorise the serving of enforcement notices as well as any variations or amendments required after the

original decision and all enforcement reports are therefore taken to the area committees for decision. This delays the commencement of enforcement action and takes up a lot of time, which could be better spent investigating complaints in what is a very small planning enforcement team (currently 3 staff for 95,000 residential properties, 1271 industrial commercial properties and 3084 hectares of open space). Enforcement is a time consuming process and the current decision making process increases the time it takes to issue enforcement notices.

- 4.5.2 Between 1st January 2007 and 30th June 2010, 434 enforcement cases were considered by area committees. Of these 430 were determined in line with the officer recommendation.
- 4.5.3 Whilst acknowledging these figures but recognising the local interest in enforcement matters, it is proposed that responsibility for initiating enforcement action is retained by Members through a sub-committee of the Sustainable Development Committee, dealing with borough-wide enforcement but in a more streamlined way.
- 4.5.4 The modification of enforcement notices and the withdrawal of enforcement notices following full/part compliance will be delegated to the Assistant Director (Regulatory and Development Services). The closure of cases and the serving of breach of condition notices will remain as a delegated function.
- 4.5.5 Wherever possible the sub-committee will meet immediately before the full Sustainable Development Committee.
- 4.5.6 The sub-committee of the Sustainable Development Committee would comprise one member from each area committee and the Chair of the Sustainable Development Committee, and an early meeting of this sub-committee would agree the list of enforcement priorities to be pursued.

4.6 Other Duties

- 4.6.1 In addition to their planning functions, area committees also have responsibility for the implementation of
- Controlled Parking Zones
 - Traffic Calming Schemes
 - Accident Prevention Schemes
 - Cycle and Bus Priority Schemes
 - Road and Footpath Closures and Diversions
- 4.6.2 The Area Committees also comments to the Executive on the Planned Highways Maintenance Programme, with particular regard to the priority of works within the area of the Area Committee, and on other annual programmes for traffic management and transport policy.
- 4.6.3 In addition the responsibility for hearing crossover appeals will be included in the Monitoring Committee responsibilities.
- 4.6.4 These functions are sometimes performed during meetings of the Area Planning Committee and at other times during Area Monitoring meetings. It is proposed that these duties are retained and discharged during Area Monitoring meetings which will continue unaffected.

5.0 BUDGET IMPLICATIONS

- 5.1 The deletion of the Area Planning committees will enable the development management service to be operate more efficiently in line with the already approved budget cut (ENV1 and ENV25, Borough Council 01/03/11) which resulted in the loss of three career grade planning officers.
- 5.2 Additionally, the proposed changes will contribute the corporate savings identified as COR5 in the Borough Council report:

Non pay budget for committee running costs i.e AV room hire, printing etc.	£29,900
Deletion of one post from Democratic Services	£38,100
Removal of 5 x Member special responsibility allowances	£32,000
Total	£100,000

6.0 COMMENTS OF THE DIRECTOR OF FINANCE

- 6.1 The Director of Finance comments that, as stated above in para 5.2, the £100,000 corporate saving has been agreed as part of the Council's budget setting for the new financial year. In order to fully achieve this saving the required action should be taken as soon as possible. Failure to do so will jeopardise the saving being made. Progress In meeting the saving will be monitored as part of the tracking the 2011/12 savings reporting mechanism.

7.0 COMMENTS OF THE BOROUGH SOLICITOR

- 7.1 The Borough Solicitor supports the recommendations.

8.0 CONCLUSIONS

- 8.1 The proposed abolition of the Area Planning Committees will have considerable benefits for the efficient running of the Council's Planning business whilst retaining an area monitoring committee structure capable of a continuing contribution to the planning process.
- 8.2 This proposal will :
- Introduce further efficiencies to a planning service with reduced resources and achieve greater consistency in planning and enforcement decisions
 - Retain an area committee role to provide local distinctiveness and a forum for community engagement.
 - Make effective use of delegated authority with safeguards exercised through the Chair of the Sustainable Development Committee.
 - Make the savings identified in Budget Proposals COR5.

11.0 EQUALITIES IMPACT ASSESSMENT

There is no evidence to suggest that this proposal will result in a disproportionate impact on equalities groups.

Background Papers:
Borough Council 1 st March 2011
This report has been or is due to be considered by:
Executive, Labour Group, Conservative Group, Area Planning Committees and Borough Council
This report is relevant to the following wards/areas:
All Wards
This report has been cleared by:

APPENDIX 1:

EXISTING FUNCTIONS OF AREA COMMITTEES AND CHANGES NOW PROPOSED

Planning

1. To determine planning applications other than major applications (see under paragraph 2 of Sustainable Development Committee for definition of major applications), and comment on major applications.

Amend the text to: To comment on major applications and those planning issues referred to it by the Chair of the Sustainable Development Committee and/or by the Assistant Director Environment (Regulatory and Development Services).

Decisions on the majority of these non major applications would be delegated to officers, subject to safeguards. The power to call-in a non major application (to the Sustainable Development Committee) would rest with the Chair of the Sustainable Development Committee only. Requests to do so could be made by any Member (including the Chair of SDC) and the Chair would consider a draft delegated decision report from officers before deciding whether to exercise that power.

Some of the non major applications currently considered by Area Committees would go automatically to the Sustainable Development Committee by reducing the current size thresholds. Developments of more than 5 residential units or 500m² of commercial floor space would be considered major applications and taken to Sustainable Development Committee.

Area Committees would continue to comment on major planning applications on their way to Sustainable Development Committee at the continuing Area Monitoring Committee meetings.

2. To authorise planning enforcement action.

This function would be carried out by a sub-committee of Sustainable Development Committee.

3. To identify area-based environmental improvement, establish priorities and seek funding for such schemes.

These activities would continue to be undertaken by Area Monitoring meetings, pending any reform of those arrangements.

4. To determine the use to which Section 106 monies should be put.

This function would continue to be undertaken by Area Monitoring meetings as currently

5. To confirm Tree Preservation Orders to which objections have been received.

This function would be delegated, subject to the same call-in safeguard described above.

6. To consider and comment on planning briefs.

These activities would continue to be undertaken by Area Monitoring meetings, pending any reform of those arrangements

7. To make comments on the Unitary Development Plan and other Planning Policy Guidance Notes and Supplementary Planning Guidance Notes.

These activities would continue to be undertaken by Area Monitoring meetings, pending any reform of those arrangements

Amend text to: To make comments on the Local Development Framework and other Planning Policy Guidance Notes and Supplementary Planning Guidance Notes

Traffic and Transport (matters delegated by the Executive)

8. To consider and approve/reject applications for vehicle crossovers. Consideration of these applications may be delegated to officers at the discretion of the Area Committees.

This function would be fully delegated to officers.

9. Subject to the matters of policy, financing and priority determined by the Executive, to deal with the implementation issues relating to:

- (a) Controlled Parking Zones
- (b) Traffic Calming Schemes
- (c) Accident Prevention Schemes
- (d) Cycle and Bus Priority Schemes
- (e) Road and Footpath Closures and Diversions
- (f) Crossover appeals

These functions would be undertaken by the Area Monitoring Committee pending any reform of those arrangements.

10. To make comments to the Executive on the Planned Highways Maintenance Programme, with particular regard to the priority of works within the area of the Area Committee, and on other annual programmes for traffic management and transport policy.

This function would continue to be discharged by the Area Monitoring meetings.

General

11. To receive petitions on matters of local significance.

This function has recently passed to Borough Council, which is passing local issues back to the Area Committees. If these petitions pertained to highways and parking matters (the great majority), they would continue to be handled by the Area Monitoring Committee pending any reform of those arrangements as at 9.above.

12. To monitor local services provided by the Council and external agencies.

This would remain a function of the Area Monitoring meetings

13. To provide a forum for public discussion of topical local issues subject to the protocol for speakers at meetings adopted by the Area Committee.

This would remain a function of the Area Monitoring meetings

14. To determine the allocation of grants to local voluntary organisations from the Area Committee Small Grants Fund.

This would remain a function of the Area Monitoring meetings

15. To approve expenditure on local projects from budgets delegated to the Area Committee subject to expenditure being solely within the terms of the delegation.

This would remain a function of the Area Monitoring meetings

Appendix 2

EXISTING FUNCTIONS OF SUSTAINABLE DEVELOPMENT COMMITTEE AND CHANGES NOW PROPOSED

Planning:

1. The powers and duties of the Council as local planning authority (except for the development and adoption of the Unitary Development Plan).

No substantive change. Amend text to: The powers and duties of the Council as local planning authority (except for the development and adoption of the Local Development Framework)

NB. The Committee is also empowered to exercise the planning functions which are delegated to the Area Committees and, subject to the protocol set out at the end of these Terms of Reference, may itself decide to consider and determine any planning application or related matter which might otherwise fall to be decided by the Area Committee”.

This procedure would be redundant when Area Planning Committees are abolished

2. To make recommendations to the Executive in relation to the adoption of the Unitary Development Plan.

No substantive change. Amend text to: To make recommendations to the Executive in relation to the adoption of the Local Development Framework.

3. To determine major planning applications (defined as including residential premises of 10 or more dwellings and commercial developments of 1000 square metres or more of floor space including changes of use applications within this scale).

Proposed change to reduce the threshold to 5 dwellings and 500 square metres of commercial floor space.

Note: the Scheme of Delegation will be amended to make it clear that the Chair of SDC may call-in non-major applications.

4. To determine applications which constitute a departure from the development plan.

Improved wording to read “To determine applications which are recommended for approval and which constitute a departure from the development plan”. The Scheme of Delegation will be amended so that officers may determine applications recommended for refusal.

5. To determine the Authority’s own applications.

No change

6. To review the Council’s planning policies and make recommendations where appropriate.

No change

7. To propose and adopt planning briefs following consultation with Area Committees, as appropriate.

No change – any planning briefs produced would go to Area Monitoring Committees for consultation.

8. To propose Conservation Areas following consultation with Area Committees.

No change – consultation would be with the Area Monitoring Committee

9. To authorise Agreements under Section 106 of the Town and Country Planning Act 1990 and Section 278 of the Highways Act 1980 (other than those which result from applications determined by the Area Committees).

Amend text to read “To authorise Agreements under Section 106 and Section 106A of the Town and Country Planning Act 1990 and Section 278 of the Highways Act 1980.

NB

1. In accordance with the standard recommendation, the scheme of delegation will be amended to make it clear that officers have delegated powers to authorize those Section 106 agreements which have the same heads of terms and are connected to a planning application on the same site which has been resubmitted within a year of the grant of planning permission for the original application.

2. In line with SDC’s resolution on 23rd February 2011, the scheme of delegation will be amended to confirm that officers have delegated powers to authorize entry into deeds of variation (or other legal agreements) made under s.106 and/or s.106A of the Town and Country Planning Act 1990 where the variation(s) to the principal s.106 agreement or unilateral undertaking does not affect the Council’s interest and there are no financial implications for the Council.

10. To apply for the listing of buildings of special architectural or historic interest where these are of significant public interest (see also powers delegated to the Borough Planning Officer).

No change. Delete reference to Borough Planning Officer post which no longer exists

11. To approve Access and Listed Buildings grants applications.

No change

Transport and Highways

12. To consider, and advise the Executive on, the following functions:
a) the powers and duties of the Council as a highways, traffic and transportation authority under Highways Road Traffic and other Acts and

associated regulations.

b) the provision of Controlled Parking Zones, in consultation with appropriate Area Committees.

c) the determination of traffic calming schemes where they affect more than one Area Committee.

d) the determination of the Annual Programmes for Traffic, Highways and Transport following consultation with Area Committees.

e) the management and use of the Council's street furniture assets and amenity facilities, including agreeing any fees, charges or sponsorship arrangements for the use or provision of such assets or facilities.

No change

The Environment

13. In response to consultation, to make recommendations to the Executive in relation to the promotion and implement of Green Belt programmes, including the acquisition of land.

No change

14. In response to consultation, to make recommendations to the Executive in relation to local nature reserves and the approval of the preparation of Local Nature Conservation Strategies.

No change

15. In response to consultation, to make recommendations to the Executive in relation to management agreements with owners and occupiers concerning the landscape and nature conservation of their land under Section 39(1) of the 1981 Wildlife and Countryside Act.

No change

16. In response to consultation, to make recommendations to the Executive and the Area Committees in relation to environmental improvement schemes, where the scheme impacts on more than one area.

No change

Protocol for the “calling-in” of Area Committee Planning matters

The following text will be redundant In the absence of Area Planning committees

1. Sustainable Development Committee has delegated to the Area Committees the planning functions which are described in the Terms of Reference of the Area Committees. The Sustainable Development Committee has the legal power to reserve to itself the right to determine any planning application or related matter which has been delegated to the Area Committee and to “call-in” those matters for decision.

2. It is anticipated that the power of call-in will only be exercised in exceptional circumstances. These may include (without limitation) occasions where:-

(i) There has been a significant breach by Members of the Member Code of Conduct or Town Planning Code of Conduct in the process leading to consideration of the matter.

(ii) Where more than half of the Members of the Area Committee have declared a personal and prejudicial interest in the matter under consideration.

(iii) Where there has been a significant number of expressions of public concern about the manner in which the application or other matter has been dealt with prior to Area Committee determination

(iv) Where it appears that the intended decision of the Area Committee will have serious financial consequences for the Council.

(v) Where the Area Committee has failed to reach a decision on the matter on at least 2 occasions without substantial justification on planning grounds

A proposal to call-in the decision will in the first instance be discussed between the Chair of the Sustainable Development Committee, the Area Planning Committee Chair, and the Chair of the Executive who will together consider the circumstances and attempt to agree the proper forum for the decision. If the Chairs are unable to agree on the need for the decision to be called-in then the Sustainable Development Committee itself will be asked to consider whether or not to exercise the right of call-in and, if it agrees, to then proceed to determine the matter itself.