**Baildon Town Council Report for 18th March 2024 Full Council meeting.**

Report of the Clerk - Review of the Council’s approach as a statutory consultee in the planning process and proposed way forward.

1. Background and context

In March 2023 Full Council resolved to disband the Planning Committee (FC2223/69) due to a variety of reasons; frequency of deadlines for submitting comments to the Local Planning Authority (LPA) outstripped the monthly meetings of the committee, the high number of ‘no comment’ responses and thus the heavy burden on councillors in attending so many meetings with little impact.

A trial period for a new approach was agreed which involved all planning applications being considered at any meeting of the council and revised Terms of Reference for committees to take on this role plus other planning related issues eg. Highways at Economy Committee.

The trial period was to conclude in April 2024 with a 6-monthy review conducted in Autumn 2023.

1. Review of the process

2.1 The process has been reviewed by a small working group – Cllrs Dixon, Jennison and Foster supported by the Clerk and the Admin Officer. An online survey was conducted of all councillors asking for their views of how the trialed new approach had impacted their committees and their thoughts on future approaches to planning.

2.2 These views were taken into account and the learning from this review is summarized as follows:

* There had been several major planning applications come forward for consideration since May 2023 and this had resulted in some high public attendances at different council meetings. There had been positive feedback from the public on how comments had been invited, managed and communicated to the LPA.
* There had had to be one extraordinary committee convened to enable planning applications to be considered within the timeframes. Long gaps between committee meetings in the summer and the Christmas period had caused some concern that if a major application had come in for comment then further extraordinary meetings would need calling.
* Extensions of time had been requested for the majority of applications (and mostly approved by the LPA) to fit in with our committee dates.
* Although applications had been circulated to all councillors on a weekly basis the bulk of the responses had been from Cllr Jennison with a very small group of other councillors.
* A substantial amount of committee time is spent dealing with planning applications especially when there is high public attendance.

2.3 Yorkshire Local Councils Association has been consulted and their advice on this document has been incorporated.

3 Review Overall Conclusions:

* It is burdensome for regular committees to deal with planning applications, especially when a very small number of councillors examine the planning applications in advance.
* Even with all committees dealing with planning applications, There are still gaps in the calendar which may require extraordinary meetings to be called.
* There are a significant number of applications which are still ‘no comment’ or very routine requiring a relatively standard response – these sorts of applications do not really need committee involvement (see Appendix 1 for an analysis of planning applications seen during the trial period).
1. Recommendations

From May 2024 it is proposed that a three-pronged approach is taken for BTC to fulfil its role as a statutory consultee in the planning process. This tries to involve all councillors, make best use of committee time without it becoming onerous, provide a mechanism for residents to attend council meetings to discuss their views on applications, maintain Baildon Town Council’s profile with the LPA in the consultation process and minimize administration. The approach:

* 1. Re-introduce a Planning Committee with new Terms of Reference (see attached draft Appendix 2). This Committee will be diarized to meet every three weeks (with dates pencilled into the diaries of the members of the Committee) but it *will only be summoned if there are enough relevant planning applications to make it worthwhile*.
	2. A Scheme of Delegation is approved to delegate to the Clerk responses on certain planning applications to the LPA.

(*A Scheme of Delegation forms part of the council’s Financial Regulations and Standing Orders and provision is made in the Local Government Act 1972 s101 for a council to delegate its powers (except those incapable of delegation) to a committee, or an officer).*

A draft Scheme of Delegation is attached at Appendix 3.

* 1. The possibility will still exist (in exceptional circumstances – such as significant resident interest) for planning applications to be placed on ordinary council meetings or for the council to call extraordinary meetings.
1. **Resolution: Full Council resolves to approve a new approach to planning consultation comments by:**
* Approving the creation of a Planning Committee and their Terms of Reference
* Approving the implementation of this new approach starting in May 2024 for a year (to April 2025) with a further review in Oct/Nov 2024.
* Recommend to Governance the revision of Committee Terms of Reference is not required at this stage as planning may still be placed on their agenda.

Appendix 1

Analysis of Planning Applications received:

June 2023 – January 2024

|  |  |
| --- | --- |
| **Types applications.** |  |
| FUL (Full) OUT (Outline) LBC (Listed Building Consent)CLP (Certificate of Lawful Practice)Other | **19** |
| HOU (householder) | **23** |
| **Total** | **41** |

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Substantial comments** | **‘No comment/supports without comment or objects without comment’** | **Routine comment** |
| **FUL** | **8** | **3** | **0** |
| **LBC** | **1** | **0** | **0** |
| **OUT** | **3** | **0** | **0** |
| **CLP** | **1** | **0** | **1** |
| **HOU** | **0** | **12** | **11** |
| **Other (Prior Notification for Permitted Development PNP, Householder Variation of Conditions HVC)** | **0** | **2** | **0** |

Routine comment may read along the lines of: “*Baildon Town Council has no objection to this proposal as long as the materials and design used are sympathetic to the existing style of the house and the neighbouring properties”.*

**Conclusion**: approximately 50% of applications (ie householder applications for garage and dormer extensions etc) could be delegated to the Clerk for response as they have routine or no comment response. Making some sort of comment keeps Baildon Town Council’s profile up with the LPA even if it is ‘no comment’.

Appendix 2 – Draft revised Terms of Reference for re-instated Planning Committee

**PLANNING COMMITTEE**

**DRAFT TERMS OF REFERENCE**

|  |  |
| --- | --- |
| Amended Gov 2122/08.2 | 12th July 2021 |
| Approved Full Council  | 26th July 2021 |
| Approved Full Council  | TBC 18th March 2024 |

The Committee will act as the Town Council’s formal consultee for planning applications and other consultations concerning town and country planning, licensing, tree preservation orders and traffic regulation. In particular, the Committee will:

* Monitor planning applications received by Bradford Metropolitan District Council for Baildon and submit any comments on them to Bradford Council
* Keep under review the Scheme of Delegation to the Clerk for Planning responses.

Specifically, the Committee may in relation to the matters above:

* Implement and review the relevant objectives of the Baildon Plan (the *formulation* of the Neighbourhood Development Plan is with Governance Committee).
* Take all policy and non-financial decisions in relation to these issues.
* Spend within, monitor and vire between delegated budget headings.
* Make recommendations for changes to delegated budget headings.
* Formulate and recommend budget proposals to assist precept-raising.
* Consider relevant topical issues as they arise (other issues eg. transport planning is with Economy Committee).
* Keep up-to-date with developments.
* Send and receive representatives to and from partner organisations.
* Communicate internally and externally through the proper channels.
* Work co-operatively with internal and external partners.
* Recommend fees and charges to the Governance Committee.

The Committee will be elected at the Annual Meeting of the Council in May

The Committee will have four councillor members and will have a quorum of three councillors.

A Chair of the Committee, who must be a councillor, will be elected at the first committee meeting each year.

A Vice Chair of the Committee, who must be a councillor, will be elected at the first committee meeting each year.

The Committee may co-opt non-councillors as non-voting members, for reasons of expertise or experience.

The Committee shall meet every three weeks only if summonsed.

The Clerk is authorised, in consultation with Chair of the Planning Committee, to decide if any meeting shall be needed, and make the decision not to do so. The Clerk (or Deputy Clerk) will convene meetings of the Committee, take the minutes of meetings and action decisions arising from meetings.

The Committee shall keep and ratify its own minutes.

During consideration by the Committee of confidential matters, the press and the public will be excluded from meetings under the provisions of the Public Bodies (Admissions to Meetings) Act 1960 S1 (2), and these matters will be reported to Council as a confidential minute.

Extraordinary meetings of the Committee may be called in accordance with Standing Orders 4c and 4d.

Unless the Council determines otherwise, the Committee may appoint sub-committees whose terms of reference and membership shall be determined by the Committee.

The terms of reference shall be given to all Council members for information and shall be ratified at the first meeting after the Council’s annual meeting in May.

Councillors, who are not members of this Committee, may attend any meeting of the Committee but as they are not formal members are not permitted to vote on any of the Committee’s decisions unless they are acting as a substitute member.

Appendix 3 - SCHEME OF DELEGATION TO THE CLERK – PLANNING

DRAFT

# DISCHARGE OF THE SCHEME

* 1. The Clerk is designated and authorised to act as the Proper Officer for the purposes of all relevant sections of the Local Government Act 1972 and any other stature requiring the designation of a proper officer.
	2. This Scheme of Delegation forms part of the Council’s Financial Regulations and Standing Orders and will be reviewed every two years and when there are staffing changes.
	3. Those with delegated responsibility are referred to by job title, Town Clerk (Proper Officer). The Town Clerk will delegate responsibility in their absence to the Deputy Clerk. Administrative support throughout the whole process is provided by the Administration Officer.
	4. One of the purposes of the document is to clearly define the parameters within which the Clerk of the Council can act without reference to Councillors. Where consultation with others is a requirement of the ability to act it is clearly set out with whom that consultation should take place.
	5. Any deviation from this Scheme should be reported to Council at the earliest opportunity with an explanation of the circumstances in which the breach occurred.

# PRINCIPLES OF DELEGATION

* 1. Section 101 of the Local Government Act 1972 provides:
		+ That a Council may delegate its powers (except those incapable of delegation) to a committee, or an officer.
		+ A Committee may delegate its powers to an officer.
		+ The delegating body may exercise Powers that have been delegated.
	2. Any delegation to the Clerk shall be exercised in compliance with the Council’s Standing Orders, any other policies or conditions imposed by the Council and with the law.
	3. Where the Clerk is contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should also consult the Chair of the Council and must ensure that they obtain appropriate legal, financial, and other specialist advice before action is taken.
1. **AUTHORITY TO ACT**

3.1 It will be appropriate for the Clerk to refer a matter to the Planning Committee where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for councillors to determine; or could, by its scale or complexity expose the Council to major corporate risk.

3.2 The Clerk has the responsibility to act within the Council’s approved policies, procedures, and framework and within the law in conjunction with this delegated scheme.

# CONFLICTS OF INTEREST

* 1. Under the Local Government Act 1972, section 117 the Clerk must make a formal declaration about council contracts which they have a financial interest.
	2. Where the Clerk has a conflict of interest in any matter, he/she shall not participate in that matter unless approved by the Council and this is formally recorded in the Council minutes.
1. **DELEGATION DETAILS AND DUTIES**

5.1 Baildon Town Council’s Scheme of Delegation authorises the Clerk to the Council, who is also the Proper Officer and Responsible Financial Officer (RFO), herein referred to as the Clerk, to act with delegated authority in the **specific circumstances detailed below** in order to enable the Council to fulfil its responsibilities to its residents as regards planning comments to the Local Planning Authority.

5.2 This Scheme of Delegation should be read in conjunction with the Terms of Reference of the Planning Committee who have a remit for planning responses.

 5.3 The Clerk will:

* 1. Provide details of all Planning Applications received to all councillors.
	2. Applications as listed in LIST A below will normally be considered at the next available Planning Committee meeting.
	3. Applications in LIST B will normally be delegated to the Clerk to respond to the LPA. The Clerk will invite comments from all Councillors (ie the whole council not just the Planning Committee) via email (or agreed alternative form of communication) with a written deadline for comment.
	4. Councillors and co-opted members of Planning Committee shall send their individual comments to the Clerk. All councillors and co-opted members, when reporting their comments to the Clerk will do so directly back to the Clerk (without copying in colleagues) thereby avoiding complex online discussion between councillors. This is to ensure transparency and the ability to audit the conversations.
	5. If no councillor or co-opted member makes a comment to the Clerk by the deadline the Clerk is delegated to respond “No Comment” or to use the standard form of words as follows if appropriate: “*Baildon Town Council has no objection to/supports this proposal as long as the materials and design used are sympathetic to the existing style of the house and the neighbouring properties.*”
	6. The Clerk is delegated to send all planning application responses to the Planning Authority.
	7. If substantial new information comes to light after a consultation comment has been made the Clerk is delegated to withdraw the comment and/or make a new comment subject to the LPA’s timescales and in consultation with the Chair of the Planning Committee.

**LIST A**

1. Major Applications Full (MAP) and Outline (OMAP)
2. Full Applications (FUL)
3. Outline Applications (OUT)
4. Listed Building Consents (LBC)
5. Advertisements – applications for Advertisements and signage (ADV)
6. Change of Use
7. Applications within the conservation areas
8. Certificate of Lawful Practice (CLP)

**LIST B**

a) Householder applications (HOU)

b) Prior notification (Telecomms) PNT

c) Householder Variation of Conditions (VOC)

d) Prior notification of solar panels (PNP)

5.4 If an application on LIST A cannot be placed on the Planning Committee agenda due to timing issues (having already requested an extension of time from the LPA) OR due to substantial public interest, then the Clerk with Chair of the Planning Committee and Chair/ Vice Chair of the Council will discuss how the application is going to be dealt with in the timescales that the Council has. The application will be considered at the next convenient committee meeting or an extraordinary meeting will be called.

If an application on List B is considered to have significant public interest the Clerk is delegated to either place it on an existing planning committee meeting agenda or summons an extraordinary meeting.

1. **REVIEW**
	1. (During the second trial period (May 2024 – April 2025) the Planning Committee shall regularly review the approach of delegating to the Clerk. The Clerk shall provide review reports.)
	2. The Scheme of Delegation will be reviewed each year at the first meeting of Council.
	3. The Scheme of Delegation will reviewed whenever there is a staffing change.