

# Shadow Planning Committee

Wednesday, 11th March, 2015

## MEETING OF SHADOW PLANNING COMMITTEE

- Members present: Councillor Mullan (Chair);  
Councillors Bunting, Campbell,  
Garrett, Haire, Heading, Johnston,  
McDonough-Brown, McGimpsey,  
Ó Donnghaile, L. Patterson and Sandford.
- Also attended: Councillor J. Rodgers.
- In attendance: Mr. J. McGrillen, Director of Development,  
Mr. C. McIlwaine, Divisional Planning Manager;  
Ms. K. Mills, Senior Planning Officer;  
Ms. N. Largey, Council Solicitor;  
Mr. K. Sutherland, Urban Development Manager; and  
Mr. B. Flynn, Democratic Services Officer.

### **Apologies**

Apologies were reported on behalf of Councillors Armitage, Bradshaw, Carson, Corr, Hargey, Hutchinson, McCoubrey and R. Patterson.

### **Minutes**

The minutes of the meeting of 19th February were taken as read and signed as correct. It was reported that those minutes had been adopted by the Shadow Council at its meeting on 3rd March.

### **Declarations of Interest**

No declarations of interest were reported.

### **Listing and De-Listing of Buildings**

The Committee was advised that correspondence had been received from the Northern Ireland Environment Agency (NIEA) seeking the Council's views in respect of proposals which had been formulated for the listing and de-listing of a number of buildings in Belfast. The Committee agreed with the Agency's proposals to list the following buildings:

- The Synagogue, Somerton Road
- Royal Belfast Hospital for Sick Children
- Microbiology Building, Grosvenor Road
- External Waiting Hall - Royal Victoria Hospital
- Direct Wine Shipments, Corporation Square

- Congregational Church, 101-103 Donegall Street
- 1 Victoria Square
- 4, 5 and 6 Murray Street
- Central Hall, Rosemary Street
- 1-5 Castle Lane and 23-29 Cornmarket
- 13-17 Grosvenor Road
- War Memorial Building, 9 Waring Street
- McCracken's Bar, Joy's Entry
- Belfast Telegraph Offices, 124-144 Royal Avenue

### **Dankse Bank – Donegall Square West**

The Committee was advised that a letter had been received from representatives of Danske Bank requesting that that it would agree not to support a proposal to list the bank's corporate headquarters in Donegall Square West. The letter had indicated that the building acted as the bank's regional operations centre for the island of Ireland and added that the listing of the building could impose unnecessary constraints on the ability of the bank to upgrade or re-develop its headquarters.

The Committee noted the information which had been received but agreed that it was minded, given its unique architectural and contemporary style, to support the proposal to list the building.

### **Advance Notice of Delisting**

The Committee agreed that it would be opposed to delisting of the following properties:

- Arnott House – Bridge Street
- Donegall Chambers –Donegall Place
- 81-87 Royal Avenue
- 23-37 Talbot Street
- Imperial House – Donegall Square East
- 20-22 Castle Street
- 56-88 Royal Avenue
- Fountain House - Donegall Place

### **Transfer of Planning Function**

The Committee considered the following report which gave an overview of the Council's preparations for assuming responsibility for the planning function from 1st April onwards:

#### **“1.0 Background information**

- 1.1 On 1st April 2015 a range of planning functions will transfer from DOE to the council. The Senior Responsible Officer (SRO) for this 'project' is John McGrillen and a programme team of DOE and BCC officers is coordinating delivery of a detailed**

project plan. A project board (the 'Planning Panel') has also been established with input from across Council.

- 1.2 The transfer of planning is largely seen in two phases - transition and transformation. The current priority is a successful transition. Namely, ensuring the Council can discharge its statutory duties and deliver business critical planning functions from 1st April 2015.
- 1.3 At its meeting on 13 January the Council's Audit Panel requested that the SRO submit to the Shadow Planning Committee a state of readiness report (and that this be forwarded to the Audit Panel following Shadow Planning Committee consideration). A report was subsequently presented to Shadow Planning Committee in February and also to the Council's Assurance Board and Audit Panel in early March.
- 1.4 The purpose of this report is therefore to provide an update on readiness since the previous report to committee and highlight key areas requiring further action and the proposed work to address these. Readiness in this instance has been judged by our ability to:
  1. Receive and process new, or live, applications for planning permission, Tree Preservation Order requests and enforcement case; *and*
  2. Support the work of the new Planning Committee.
- 1.5 Appendix 1 outlines the key deliverables that must be in place in order for this to happen and provides an assessment of readiness; indicated by a Red, Amber, and Green (RAG) status. This has been informed by input from officers and senior managers across council.
- 1.6 The SRO's assessment at this time indicates that the majority of tasks are either completed or on target for completion within the required timescales and, as such, it is considered that the Council is well placed to deliver planning from 1st April 2015. However given the scale of change and ongoing issues that still need to be managed regarding the portal, processes, governance arrangements and staff transfer, it is inevitable that issues will arise in the early weeks and months following the transfer of planning. Any such issues will continue to be managed by the project team in consultation with planning staff.

## **2.0 Summary of key issues**

**2.1** There are a number of key issues of which members should be aware. These are summarised below with details of current and proposed mitigating actions. Further detail on these and other work streams is outlined in Appendix 1.

**2.2** These actions have been included within the project plan and issues log that is reported regularly to the Planning Panel and TMT. Key issues that remain critical in relation to day 1 include:

### **2.3 Planning Portal**

- The re-configuration and testing of the NI Planning Portal is an ongoing process and is being delivered by the DOE.
- The Portal will continue to be 'owned' by the DOE at a regional level and therefore the Council does not have the ability to change or adapt it.
- The Council is therefore reliant upon the DOE to ensure that the system meets operational needs and is operational from 1st April.
- The DOE will not provide access to the Portal from the BCC network until 1st April.

### **Mitigating actions**

1. Staff from the Belfast Planning Office have been nominated to attend the DOE portal testing schedule and provide feedback on system updates
2. Connectivity to the Portal on the BCC network has been established and tested.
3. A regional governance structure for the ongoing management and subsequent replacement of the portal (post 2019) is to be agreed by Chief Executives.
4. A business continuity plan will be put in place to respond to any potential connectivity issues.

### **2.4 Regional SLAs**

- A number of services will be delivered through a shared services agreement i.e. facilitated by one council on behalf of all 11 councils. Examples include Property Certificates and environmental services.
- An SLA, provided by the DOE, outlining how they will be resourced and how councils can access them, is to be agreed.

- **Regional SLAs with statutory Consultees must also be agreed. NILGA were originally asked to lead this work stream, however these have not been sufficiently progressed and are not yet agreed.**

#### **Mitigating actions**

- **The new councils have agreed to lead the development of new SLAs with statutory consultees in place of NILGA. Belfast City Council will progress the SLAs with DRD and Northern Ireland Water. It should be noted however that the Planning Act (NI) 2011 places the onus on statutory Consultees to respond within a stated timeframe and therefore provides sufficient protection for the Council as planning authority to proceed with decision making.**
- **Shadow Planning has granted authority to the Chief Executive to enter into an SLA for the provision of shared environmental services.**

#### **2.5 Telephony**

- **Belfast City Council, along with 8 of the other new Councils, will be maintaining the use of NI Direct for call handling.**
- **Customers will therefore continue to use the same contact number (0300 200 7830) and calls will be transferred to staff in Cecil Ward as required.**
- **Guidance has been given to Council telephony staff on what to do should they receive calls directly through the Council exchange however further work is required to confirm that this system interface will be in place for day 1.**

#### **Mitigating actions**

- 1. Council has been meeting directly with NI Direct and data transfer between systems has been confirmed; though voice transfer is still to be confirmed**
- 2. Communications is being sent to all applicants/objectors/correspondents from 2nd April to confirm the change of contact details and new office location.**
- 3. Council will ensure that key staff have direct dials and mobiles/blackberries to ensure staff are accessible to members and the public as required.**

## 2.6 Transitional Arrangements

- Arrangements are required in order to manage the transfer of live applications from transferring areas. This includes arrangements for handover by case officers, relocation of Portal reference numbers, allocation of fees for partially processed applications and transfer of hard files.
- Consideration is also required in relation to how deferrals by the existing Town Planning Committee will be handled.

### Mitigating actions

1. Further input from DOE is to be sought in relation to transitional arrangements and in particular the allocation of fees.
2. The local Area Planning Manager has been engaging with his Lisburn & Castlereagh counterpart to determine the volume and complexity of transferring cases .
3. Democratic Services has scheduled an additional Town Planning Committee meeting in order that any outstanding deferred cases can be considered before transfer.”

The Committee noted the information which had been provided.

### River Lagan - Proposed Bridge

The Committee considered the following Council response to the Department for Regional Development's consultation regarding the proposed new bridge over the River Lagan between the Ormeau Embankment and the Gasworks Estate:

#### **“Council Response**

**Belfast City Council welcomes the opportunity to comment on the proposed pedestrian and cycle bridge over the River Lagan, Belfast. The Council has a keen interest in this proposal due to its proximity to the Ozone Leisure Centre and Ormeau Park. Whilst the Council is broadly supportive of the proposed development to improve connectivity of the city to surrounding neighbourhoods it is essential to consider any environmental issues arising from the proposed pedestrian and cycle bridge. It should be noted that the bridge proposal will be located on DSD land at the east and west bank of the river. It is anticipated that this land will be transferred to council ownership as part of the DSD asset transfer in April 2016. The Council will engage with DSD and DRD regarding detailed design and management of these areas.**

In the response below some strategic context is outlined before specific comments in relation to the proposal under consideration.

#### **Belfast Metropolitan Area Plan**

Within BMAP two new pedestrian/cycle bridge crossings are proposed to serve key activity spines between the east and west sides of the River Lagan. These are proposed to improve the connection between the extension of existing riverside walkways and the more strategic sections of the pedestrian network, whilst facilitating better access to and from the City Centre. The Council welcomed the proposed pedestrian/cycle bridge crossing Gasworks to Ormeau Embankment (Proposal CC 023/02) in relation to improving the connections and accessibility of the city centre.

#### **Belfast City Masterplan**

Belfast City Masterplan sets out the strategic objective for an Accessible and Connected City. The masterplan aims to deliver a placemaking solution for the Shaftesbury Link (City Centre Ring Southern Section) which contains the potential for a pedestrian bridge from the Gasworks to Ormeau Park in order to link the residential neighbourhoods to Ormeau Park.

#### **Belfast City Council City Centre Regeneration Strategy and Investment Plan**

The draft Belfast City Centre Regeneration Strategy and Investment Plan identified the policy objectives to “Create a green, walkable, cyclable centre” and “Connect to the city around”. These are two of the eight policies outlined in the draft plan.

The objective to “Create a green, walkable, cyclable centre” is to “reduce the area of asphalt and increase green space in the city centre through provision of new open spaces, a comprehensive streetscaping programme and development of the Lagan corridor as a recreational spine.”

The objective to “Connect to the city around” aims to “reduce barriers between the city centre and the communities that surround it by connecting to activity in adjacent neighbourhoods, developing two new pedestrian bridges over the River Lagan and reducing road widths, improving pedestrian crossings, streetscaping key corridors and improving the built form relationship at the edge of the centre.”

Belfast City Council welcomes the proposed development of a pedestrian and cycle bridge over the River Lagan as this will provide increased accessibility to the Ozone Leisure Centre and Ormeau Park. Increased usage of these facilities will enable more people to get more active, more often and help us achieve better health outcomes for the City and local neighbourhoods. The Council would

like accessibility to the park and leisure centre to be considered during the design and construction phase so that there is no negative impact on the public's ability to use these facilities.

From a waste management perspective, the Council would encourage the use of sustainable/recycled material where reasonable practical within the bridge construction. We would also emphasise the importance of managing any waste generated throughout the whole phase (e.g. excavation and construction / building works) appropriately, whilst adhering to all legal requirements (such as Duty of Care). We would encourage the recycling and minimisation of any waste generated on site by the construction workforce (e.g. food scraps, paper, cardboard, plastic and cans). Also, promotion of the waste hierarchy with prevention and reduction of waste as a priority should be considered throughout the whole project.

When consulting on the environmental and biodiversity impacts of the construction and use of the proposed pedestrian and cycle bridge Belfast City Council would request clarification that the Northern Ireland Environment Agency has been consulted as part of this process.

Belfast City Council Environmental Protection Unit had been previously consulted by the DoE at the 'preapplication stage' for the proposed pedestrian/cycle bridge (Z/2014/1060/PREAPP).

This Unit's correspondence with Planning, date 3<sup>rd</sup> Nov 2014 is attached. It refers to two reports which were submitted at preapplication stage, both conducted by Amey:

Phase I Land Contamination Report Proposed River Lagan Footbridge Amey PLC" dated September 2014 and referenced CO0401210.

Study of Options Environmental Report, Lagan Footbridge, Belfast Road Service" dated August 2014 and referenced CO401123/SOER/v1

In the letter we requested that a Phase II contaminated land risk assessment is submitted which involves an intrusive site investigation of underlying soils/water and possible gas. The Amey Phase I report had concluded that a Phase II was conducted.

In relation to noise impacts from construction works, the August 2014 Amey report refers to noise effects which will be temporary and of short duration. The report highlights the fact that piling operations will affect receptors in the vicinity. What was not referred to in the EPU letter was BCC's construction Advice Notes which gives advice/guidelines to contractors re noise from construction works

**including piling, noise and vibration. BCC construction advice notes are attached for reference.”**

After discussion, the Committee endorsed the response, subject to it being amended to reflect that the Council was of the view that further consultation was required with local residents on their concerns that the bridge could potentially create an additional flashpoint for between youths in south and east Belfast.

### **Planning Committee - Operating Protocol**

(Ms. N. Largey, Council Solicitor, attended in connection with this item.)

The Committee was reminded that, at its meeting on 19th February, it had considered a draft Operating Protocol to oversee the running of the Planning Committee from 1st April onwards. At that meeting, the Committee had agreed that the Protocol would be re-examined with a view to reflecting a range on comments and suggestions which had been made by Members.

Accordingly, the Council's Solicitor outlined the principal aspects of a revised Operating Protocol and outlined how it had been amended to address the issues which had been raised. Specifically, she referred to the amendment regarding representations to the Committee by Elected Members. In addition, she clarified that Members would be permitted request that an application be removed from a delegated list only if that application was within their District Electoral Area.

The Committee endorsed the following protocol, which would oversee the operation of the Council's Planning Committee from 1st April, 2015 onwards:

#### **“OPERATING PROTOCOL**

#### **BELFAST CITY COUNCIL PLANNING COMMITTEE**

#### **INTRODUCTION**

**1. The following protocol has been developed for use by the Planning Committee ('the Committee'). It should be read alongside relevant provisions of the Council's Standing Orders and the Code of Conduct for Councillors and is not intended to replace either document. The key aims of the protocol are to ensure that:**

**Those who apply for, or object to, applications before the Committee are able to make informed representations and know the case which they have to meet; and**

**The Committee makes decisions in a sound, lawful, and transparent way and in a timely and efficient manner.**

## **REMIT OF THE COMMITTEE**

### **2. The primary roles of the Committee will include:**

**Exercising the Council's powers and duties in relation to local planning policies, plan strategies, the statement of community involvement and any other development plan documents;**

**Exercising the Council's powers in relation to listed buildings;**

**Consideration of applications for planning permission and development management in accordance with the Council's Scheme of Delegation;**

**Responding to consultations issued by the Department of Environment, or any other Department, in relation to planning matters;**

**Responding to consultations in relation to regionally significant or major applications to be determined by the Department of Environment;**

**Scrutiny of the Council's delivery of planning functions, to include development management, enforcement, etc .**

**3. More detailed terms of reference can be found in XXXXXXXXXXXXXXXX.**

## **FREQUENCY & TIME OF MEETINGS**

**4. It is recommended that the Committee should meet every month; though there should be flexibility for additional meetings if required.**

**5. Dates and times will be advertised at least 5 days in advance on the Council website.**

## **SCHEME OF DELEGATION**

**6. As per the requirements of Section 31 of the Planning Act (NI) 2011 the Council will operate a scheme of delegation for planning outlining delegation both to the Committee and officers (this can be found at XXXXXXXXXXXXX). The overall objective is to ensure that arrangements for decision-making on applications for local developments are efficient whilst ensuring that proposals that raise strong local views or sensitive issues for the local environment can be dealt with by elected members. Delegating determination of some planning applications to officers is also seen as a critical factor affecting the overall performance of the development management**

process as it helps ensure that decisions are taken at the most appropriate level, procedures are clear and transparent, costs are minimised and members have more time to concentrate on complex applications.

7. In respect of development management, authority is delegated to appointed officers for local, generally non-contentious, applications.

8. Enforcement activities are also delegated to appointed officers. However the Committee will receive periodical reports on enforcement activities.

9. Arrangements are also in place within the scheme that allow members to request that an application, which would normally fall within the scheme of delegation, be referred to the Committee for determination.

10. Major applications, applications made by the Council or an elected member of the Council, and applications relating to land in which the Council has an interest in, cannot be delegated.

#### **FORMAT OF MEETINGS**

11. Committee meetings (dates, times and papers) will be published on the Council's website at least 5 calendar days in advance.

12. Papers will include the following:

Minutes of the previous meeting for approval as a complete record;  
Details of delegated applications for noting only by the Committee;  
Details of proposed pre-determination hearings;  
Details of non-delegated applications (including those brought back following deferral) for consideration by the Committee;  
Details of applications of regional significance with an impact upon the Council area in respect of which the Council is a statutory consultee or where it may wish to make representations;  
Papers relating to the development of policy.

13. All members of the Council will receive a weekly list of all applications which are delegated to officers in accordance with the Council's Scheme of Delegation.

14. If a member wishes to request that a delegated application is brought before the Committee this must be done, in writing or by email, within 14 days of the application being publically advertised. Members should notify Democratic Services of this request stating clearly their reasons, which must be material considerations.

Democratic Services will then liaise with the Town Solicitor's office and the authorised senior planning officer to determine whether the reasons which have been set out are material considerations and are of significant weight to allow the application to be referred to Committee. The Town Solicitor or authorised senior planning officer will advise the relevant member of their decision.

15. The Town Solicitor, in consultation with the authorised senior planning officer, may refer a decision back to Committee for the purposes of reconsideration.

16. A quorum, as outlined in the Council's standing orders, is required for the Committee to convene.

17. Councillors will be required to declare an interest in any item on the agenda at the beginning of the meeting and must then leave the meeting for that item. Members will then be invited to return to the meeting room and notified of the Committee's decision before the meeting recommences.

18. The Committee will discuss those applications that have not been delegated before taking a vote on one of the following options:  
Approve the application with conditions as recommended;  
Approve the application with amendments to the recommended conditions;  
Refuse the application for the reasons recommended;  
Refuse the application with additional or different reasons;  
Refuse the application contrary to officers recommendations;  
Return the application to officers with a direction for additional information or clarification.

19. The Committee can defer consideration of an application to a subsequent meeting for further information, further negotiations or a site visit. As deferrals have an adverse effect on processing times, and the applicant can lodge an appeal when the Council has not made a decision, the Committee will generally only defer an application once. The member proposing deferral must provide clear reasons as to why a deferral is necessary.

20. The Chair has a casting vote.

21. Members must be present for the entire item, including the officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.

## **PUBLIC REPRESENTATIONS**

**22. Meetings of the Committee will be open to the public; however, numbers will be limited according to the meeting venue capacity and associated fire and safety regulations.**

**23. Seating for the applicant, objectors and statutory consultees will be reserved but only for the time in which their application is being considered.**

**24. Only those who have made written submissions in respect of the application shall be permitted to make oral representations before the Committee.**

**25. Each deputation who wishes to appear before the Committee shall submit a prepared statement in advance of the meeting in a format as required by the Council.**

**26. The statement, along with any other supporting information, must be provided in sufficient time which, unless circumstances dictate otherwise, shall be 2 weeks prior to the date of the Committee at which the matter is to be considered and the statement shall be included in the report to Committee. Speakers will not be permitted to circulate papers to members at the Committee meeting.**

**27. The Committee may agree to accept representations outside these procedures but will only do so in exceptional circumstances.**

**28. All Committee papers will be available online. However, access to some documentation may be restricted by virtue of the Council's publication policy. Information which is determined to be exempt by virtue of Schedule 6 of the Local Government (Northern Ireland) Act 2014 may be published where the Council considers that the public interest in disclosing same outweighs the public interest in maintaining the exemption.**

**29. Any documentation which is provided directly to any members of the Council in relation to a particular application must also be copied to the Committee clerk/planning section so as to ensure that the issues raised can be fully investigated by officers prior to the Committee hearing. Failure to do so may result in either the documentation being disregarded or the hearing being deferred.**

**30. Deputations shall be heard in the following order:  
Statutory consultees;  
Objectors and/or their representatives;  
Applicant and/or their representatives and/or those supporting the application.**

31. Statutory consultees shall only be invited to attend Committee where they have objected to an application. If a member requires the attendance of a statutory consultee in other circumstances, this must be done at least one week in advance of the Committee meeting.

32. Deputations, unless otherwise agreed in advance by the Committee, shall consist of no more than 3 persons. Where there are more than 3 objectors or groups of objectors they will be required to arrange a single deputation to express their representations.

33. Deputation shall be confined to the presentation of a statement and the making of a short address either by each member of the deputation or, should they so wish, by their nominated spokesperson or legal adviser.

34. Each deputation shall be permitted a maximum of 5 minutes to address the Committee. Where more than one person wishes to make representation the 5 minutes should be shared between the members of the deputation.

35. All members of a deputation must continue to be seated and remain silent whilst other deputations are being made to the Committee.

36. Cross-examination, discussion or any type of debate between persons making representations to Committee shall not be permitted.

37. Once all deputations have been made, the parties shall be permitted an opportunity to rebut any factual inaccuracies which may have arisen from the oral representations of another deputation and in respect of which they have not had an opportunity to comment. This will be strictly limited to responding to any such issue and the party will not be permitted to rehearse any representations which have already been made.

38. The Committee may, upon advice from officers, exclude any deputation from being present during the whole or part of the time when any other deputations are being made due to the confidential nature of information relevant to the application to be discussed; or for such other reasons as may be deemed appropriate.

39. The Committee may seek clarification from those who have spoken on any issues raised by them but should not enter into a debate.

40. Officers can address any issues raised during the course of representations from any deputation and the Committee may seek clarification from officers.

41. The Chair will ensure that those making representations to the Committee adhere to the time limits set out in this Protocol. These time limits will have been communicated to those making representations in advance of the meeting.

42. The Chair may at any time during the hearing of deputations, if they think it necessary to secure order, suspend the meeting and direct the removal of any individual from the meeting, or order that the meeting be cleared of all deputations.

43. When hearing deputations, the Chair will require members engaging in debate to desist, until such time as all relevant information has been received.

44. The Chair may bring the questioning of any person appearing before the Committee to a close provided s/he is satisfied that all relevant issues have been addressed. The Chairman may also prevent duplication of questions being put.

45. If a member of the Committee moves that the question be put to a vote and the Chair is of the opinion that the application before the Committee has been sufficiently discussed, he shall put the motion to the vote.

#### ***DECISIONS CONTRARY TO OFFICER RECOMMENDATION***

46. The decision as to whether to grant an application lies with the Committee and it is entitled to come to a decision contrary to officer recommendations.

47. Any such decision may be subject to legal challenge and members must therefore ensure that the rationale for the decision are fully explained and based on proper planning considerations.

48. The senior authorised planning officer and/or the Council's solicitor should always be given the opportunity to explain the implications of the Committee's decision prior to a vote being taken on any such proposal.

49. The reasons for the decision contrary to the officer's recommendation must be formally recorded in the minutes and a copy placed on the planning application file / electronic record.

### ***DECISIONS CONTRARY TO PLANNING POLICY***

***50. In general, planning decisions should be taken in accordance with the local development plan and any other associated planning policy documents. If a Committee member proposes, seconds or supports a decision contrary to the local development plan they will need to clearly identify and understand the planning reasons for doing so, and clearly demonstrate how these reasons justify departure from the local development plan. The reasons for any decisions which are made contrary to the development plan must be formally recorded in the minutes and a copy placed on the planning application file / electronic record.***

### ***MANDATORY PRE-DETERMINATION HEARINGS***

**51. The Committee must hold pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department but returned to the Council for determination) prior to the application being determined.**

**52. Paragraph 22-43 of this Protocol shall also apply to pre-determination hearings.**

**53. In deciding whether to hold a pre-determination hearing, members should take into account the following factors (please note this list is not exclusive):**

**the relevance of the objections in planning terms;**

**the extent to which relevant objections are considered to be representative of the community, particularly in the context of pre-application community consultation;**

**the potential of causing undue delay in the decision making process;**

**and**

**the numbers of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.**

**54. The Committee may also hold a pre-determination hearing, at their own discretion, where they consider it necessary, to take on board local community views as well as those in support of the development.**

**55. The applicant and any other person who makes representations to the Council in respect of the application will be afforded an opportunity to appear before the Committee.**

**56. Any hearing will take place after the expiry of the period for making representations on the application but before the Committee hears the application. The Council will endeavour to hold**

pre-determination hearings on a separate date from the Committee meeting at which it will be considered; however this may not always be possible.

57. For these hearings the case officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the Committee decides to hold the hearing on the same day as it wishes to determine the application the report to councillors will also contain a recommendation.

#### **PREPARATION OF PLANNING POLICY DOCUMENTS**

58. Planning policy documents include the local development plan, local planning policies, plan strategies, the statement of community involvement and any other development plan documents or guidance.

59. The Committee should have a high level of involvement in the preparation and approval of planning policy documents.

60. Once approved by the Committee, planning policy documents will be referred to the Council's Strategic Policy and Resource Committee who will assess the document to determine whether it is consistent with the broader strategic objectives of the Council.

61. If Strategic Policy and Resource Committee considers any of the said planning policy documents to be inconsistent with those objectives, the Committee will reconsider the relevant document in light of the issues raised by the Strategic Policy and Resource Committee.

62. Once the Committee has reconsidered the relevant document it shall be reported to the Strategic Policy and Resource Committee and will be subject to ratification by full Council.

#### **SITE VISITS**

63. Site visits may be arranged subject to Committee agreement. They should normally only be requested where the impact of the proposed development is difficult to visualise from the plans and other available material and the expected benefit outweighs the delay and additional costs that will be incurred.

64. Only members of the Committee and officers should attend organised site visits.

65. Members will not carry out their own unaccompanied site visits as there may be issues around permission to access the land, they will not have all of the relevant information from the relevant

planning officer and, if a councillor is seen with an applicant or objector, it might lead to allegations of bias.

66. A nominated officer will record the date of the visit, attendees and any other relevant information.

67. The Chair, or Vice Chair in the Chair's absence, will ensure that the site visit is conducted in accordance with this protocol and the Code of Conduct for Councillors.

68. A statement will be read out by the Chair before the commencement of the site visit to remind members of the purpose of the visit and the terms of this protocol. The planning officer will then remind members of the proposal and the main issues.

A nominated officer will prepare a written report of the members' site visit which should then be presented to the Committee meeting at which the application is to be determined."

#### **Deferred Applications - Update**

The Committee considered the following report:

##### **"1 Background Information**

1.1 Members will be aware that a number of planning applications have been deferred by the Council's Town Planning Committee. It is proposed to have a mop up meeting of the Town Planning Committee on 26th March 2015 to deal with those applications.

1.2 It is envisaged however that it will not be possible to deal with all of the deferred applications at that meeting. This will mean that there will be some applications which would have been decided by the DOE Planning Service but will then have to be determined by the Council as a result of the Council deferring the application.

1.3 There will also be a number of applications which have been deferred by Lisburn City Council and Castlereagh Borough Council which will be transferred to Belfast on 1st April 2015.

##### **2 Key Issues**

2.1 As members will be aware, the first actions of the Council as a local planning authority are likely to come under great scrutiny from the press, the general public, and in particular, those parties interested in the applications which have been deferred.

- 2.2 As the Council was not the decision maker in respect of those applications which have been deferred, it is likely that members have in the past made comments or expressed a view in relation to a particular application, or to a particular type of application. This will give rise to issues in relation to pre-determination, potential conflict of interest or the appearance of bias.
- 2.3 In addition, members will recall that the decisions of the Committee will be subject to the supervision of the High Court by way of judicial review. Judicial review is typically concerned with the decision making process as opposed to the decision itself. One of the grounds for judicial review is that there has been procedural unfairness in dealing with an application which includes, amongst other things, the appearance of bias.
- 2.4 In light of those considerations it is essential that the Planning Committee has a robust process in place for determining those applications which have been deferred so as to ensure that there is no appearance of bias, pre-determination or any other alleged impropriety.
- 2.5 In order to do so, it would appear that there are two options available to deal with deferred applications post April 2015. These are:
- 2.6 Option One
- Delegate permission to the senior authorised planning officer to determine all applications which have been deferred prior to April 2015.
  - This will be subject to the senior authorised planning officer, in consultation with the Town Solicitor and Director of Development, bringing any application to Committee where it is deemed appropriate in all the circumstances to do so.
  - Any major applications, applications made by the Council, an elected member of the Council, a Council employee and applications relating to land in which the Council has an interest cannot be delegated and will therefore be brought before Committee.
- 2.7 Option Two
- Apply the Scheme of Delegation to all deferred applications. Those applications which are not

delegated under the Scheme will be brought before Committee to be determined. A copy of the Scheme is attached at Appendix One.

- Any member who had requested that the application be deferred, together with any member who has had any involvement in the process or has expressed a view in relation to the application, shall not take part in the decision making process so as to avoid any suggestion of impropriety.

2.8 Officers have estimated that approximately 10-12 applications will have to be determined at each Committee meeting, taking into account the Scheme of Delegation and the average number of applications received. That estimate does not include those applications which are currently deferred.

2.9 If Option Two is selected that will increase the number of applications which will have to be considered by Committee in the initial months and may cause delay in determining other applications. Members are reminded that if a decision is not made within 8 weeks of a non major application being lodged (and 16 weeks in respect of a major application), an applicant can appeal that 'non-decision' to the Planning Appeals Commission ('the PAC'). If the PAC finds in favour of the application it has the power to make an order for costs against the Council.

### 3 Resource Implications

3.1 It is not possible to determine resource implications at present; thought it should be noted that the proportion of decisions brought before Committee will have an impact upon the required committee support provided by Democratic Services, Legal Services and the Planning Service.

### 4 Equality and Good Relations Implications

4.1 None.

### 5 Call In

5.1 Members are advised that any decision relating to the governance of the committee is subject to Call In.

### 5. Recommendations

5.1 The Committee is asked to agree to either Option One or Option Two as set out in the body of the Report."

After discussion, the Committee agreed to adopt Option Two as outlined in the report, with the following course of action to be undertaken:

- To apply the Scheme of Delegation to all deferred applications;
- That a list of applications not delegated under the Scheme would be circulated to the Planning Committee;
- Should a member of the Planning Committee wish to have an application brought before the Committee, they should notify Democratic Services within seven days of circulation;
- The remaining applications would be then be delegated to the senior authorised planning officer for consideration; and
- Any Member who had requested that the application be deferred, together with any Member who has had any involvement in that process, or has expressed a view in relation to that application, shall not take part in the decision-making process, so as to avoid any suggestion of impropriety.

Chair