

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	19 April 2016
Subject:	Review of Scheme for Public Participation at Planning Committee
Report of:	Overview and Scrutiny Committee
Corporate Lead:	Sara Freckleton, Borough Solicitor
Lead Members:	Councillor R D East, Chair of the Overview and Scrutiny Committee Working Group Councillor P W Awford, Chair of Overview and Scrutiny Committee
Number of Appendices:	5

Executive Summary:

At its meeting on 14 April 2015, the Council resolved that a Scheme for Public Participation at Planning Committee be introduced for a one year trial period starting with the new term of the Council in May 2015 and so commenced with the Planning Committee in June. The Overview and Scrutiny Committee, at its meeting on 23 February 2016, established a Working Group of seven Members to review the Scheme for Public Participation at Planning Committee and approved the Terms of Reference attached at Appendix 1. This report details the outcome of the Group's work, which was adopted by the Overview and Scrutiny Committee, and enables the Council to make a decision on the continuation of the scheme based on the findings of the Working Group.

Recommendation:

That the Scheme for Public Participation at Planning Committee be confirmed as a permanent arrangement with minor adjustments as set out at Paragraph 5.

Reasons for Recommendation:

To ensure that the Council has the opportunity to consider whether or not to confirm the arrangements for Public Participation at Planning Committee before the expiry of the trial period in June.

Resource Implications:

None additional to those already in place.

Legal Implications:

None arising directly from this report.

Risk Management Implications:

Should the Council determine not to proceed with a scheme, there could be a reputational risk that will require careful management.

Performance Management Follow-up:

Should the Council determine to introduce the scheme on a permanent basis, monitoring will continue and any issues/concerns will be reported to Members.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 At its meeting on 14 April 2015, the Council resolved that a Scheme for Public Participation at Planning Committee be introduced for a one year trial period starting with the new term of the Council in May 2015 and this commenced at Planning Committee in June.

1.2 As the one year trial period comes to an end, the Overview and Scrutiny Committee determined to undertake an assessment of how the Scheme for Public Participation at Planning Committee had worked since its introduction in order to inform the Council as to whether the scheme should continue and, if so, whether any amendments should be recommended.

1.3 Accordingly a Working Group comprising the following seven Members was established to work with Officers to review the scheme in accordance with the Terms of Reference attached at Appendix 1:

Councillors: Mrs G F Blackwell, R D East (Chair), D T Foyle, Mrs M A Gore, T A Spencer, Mrs P E Stokes and P D Surman.

2.0 BASIC PRINCIPLES OF THE SCHEME

2.1 Anyone wishing to speak on a particular planning application could register once the Agenda for the Planning Committee meeting at which it was due to be considered had been published. The only way to register a request to speak was by telephoning the Democratic Services department by 10.00am on the day before the meeting. There were four speaking slots: one for Parish/Town Councils, one for a representative on behalf of the objectors, one for a representative on behalf of the supporters (including the applicant or their agent) and one for Ward Councillors. Only one speaker was allowed in each slot (with the exception of Ward Councillors) and registration was on a first come, first served basis. Within each speaking slot, a maximum of three minutes per speaker was allowed. The existing scheme is set out in full at Appendix 2.

3.0 WORK OF THE GROUP

3.1 Letters were sent to those who had used the scheme or had an interest in the scheme inviting views/comments either in writing or in person to the Working Group.

3.2 At the first two meetings of the Working Group, Members heard from a variety of stakeholders including agents, members of the public, Parish Councillors and Officers involved with the administration of the scheme. 14 written representations were also received and considered by the Working Group.

3.3 At the third meeting of the Group, other schemes operating in the county and across the country were considered, together with a summary of all the representations which had been received.

3.4 At the fourth and final meeting of the Group, Members considered their report to be presented to the Overview and Scrutiny Committee and, subsequently, the Council. In addition, the Group received the information leaflet, which gave guidance to the public on how the scheme operated, proposing minor changes to aid clarity.

4.0 FINDINGS OF THE GROUP

4.1 Comments from users of the scheme

4.1.1 The vast majority of the representations received were supportive and very complimentary of the Council's scheme, including its administration both before the Planning Committee meetings and the organisation during the meetings.

4.1.2 Many of those making representations highlighted the value of the scheme and were strongly in favour of its continuance. Some suggestions/comments were made advocating changes to the scheme and are set out at Appendix 3, together with the response of the Working Group.

4.1.3 Appendix 4 provides a summary of the comments received where no response was required.

4.2 Officer comments

4.2.1 In terms of the Officer comments, again, it was generally felt that the scheme had worked, well. The following instances were highlighted where problems had occurred:

- A Parish Councillor was not allowed to speak in a situation where they had failed to register as required. The requirement is clear in the scheme but there is perhaps a need to remind Parish/Town Councillors of the registration requirements.
- A Parish Councillor attended the Committee but with the intention of presenting their own views rather than those of the Parish Council. Registration had taken place as required but, in the circumstances, the Parish Councillor was not heard by the Committee. The scheme is absolutely clear, but on this occasion, the Parish Councillor was not familiar with its provisions and had assumed that a designated slot presented an opportunity for any Parish/Town Councillor to give their views on an application within their Parish. In an endeavour to prevent recurrence of such instances, the Member Services Officer has now introduced a screening system whereby any Parish/Town Councillor registering to speak is now asked to confirm that they will be attending to speak to the Parish Council's formal view on the application and not on any personal/contrary view.

The Group felt that additional publicity in the Borough News would be beneficial to assist with these misunderstandings. It was also felt that Parish Councils should be reminded that it is their responsibility to ensure that their representative puts forward the views of the Parish Council and it is highly recommended that Parish Councils put in place a process to ensure that this happens. The responsibility cannot rest with the Borough Council, although it would do what it could to help.

4.2.2 The scheme/leaflet had, so far, been interpreted that any Ward Councillors (that are not Planning Committee Members) wishing to speak, have to register in the same way as any other speakers, though this isn't explicitly set out as it is for Parish/Town Councillors; the introduction in the leaflet refers to supporters, objectors and Parish/Town Councils. So far no Ward Members have challenged this but they could possibly draw on Rule 48

in Section 1, Part II of the Constitution:

"48. Councillors Attending Committees

Council Procedure Rules 13 and 14 apply (Items/Motions from Councillors).

A Councillor who is not a Member of the Committee may speak at a meeting of the Committee (but not vote, move or second Motions):

- 1. during the consideration of any item of Motion brought by the Councillor direct to the Committee or referred by the Council in accordance with Council Procedure Rules 13 and 14*
- 2. with the agreement of the Chairman of the meeting; or*
- 3. during the consideration of any matter specifically affecting that Councillor's Ward."*

The Group felt that it was important for Ward Councillors to register in the same way as all other speakers as this greatly assisted with the management of the meeting. It was agreed that the provision in the Constitution should be clarified on this basis whilst recognising that Ward Councillors have a democratic entitlement to represent the views of their electorate. It was also agreed that the scheme should be reworded to clarify this point.

- 4.2.3** The deadline for registration is 10.00am on the day before the meeting. In the scheme adopted on 14 April 2015, the wording is "the day" before the meeting, whereas the information leaflet refers to "working day" – the latter should be inserted into the scheme also (in the past some meetings have fallen immediately after a Bank Holiday so the deadline for registration would then be the Friday and not the Monday).

The Working Group was of the view that the scheme should be amended to make it clear that it is "working day".

- 4.2.4** In general, the introduction of the scheme had increased the workload of Democratic Services which initially had been significant but had now settled down to a manageable level based on the scheme currently in place.

- 4.2.5** The Officer comments and the response of the Working Group are set out in full at Appendix 5.

4.3 Reviewing other Schemes

In reviewing other schemes both across the county and the country the following main differences were identified as set out below, together with the response of the Working Group:

- 4.3.1 Difference** - Prior registration by Parish Councils not required

Comment - This would provide for unfairness, impact upon the efficient management of the meeting and potentially be open to greater abuse with personal views, rather than those of the Parish Council, being put forward as identified above.

- 4.3.2 Difference** – Speakers are not required to await the publication of the relevant Agenda before they can register their wish to speak on a particular application. This means that it could be months before the application is brought before Committee, or it may not even go to Committee. In these circumstances, there is normally a dedicated Planning Committee Co-ordinator who keeps the record and checks when the application is listed

for Planning Committee.

Comment – This was not raised as an issue by any of the consultees and, apart from one instance where a prospective speaker wished to register in advance due to being on holiday on the publication date, this had not caused any problems at Tewkesbury Borough Council. This system would be too administratively burdensome for the Council to operate within its current Member Services resource and would put the onus and responsibility on the Council when it should properly rest with those who have an interest in the application.

4.3.3 Difference – Speakers are given a limit of five minutes to present their views.

Comment – The majority of consultees felt that three minutes was adequate to get across the salient points without losing emphasis and becoming repetitive. It was not felt that the extra two minutes would add to the process and could even disadvantage a speaker. There had been a few large, complex applications considered during the trial period where three minutes had proved more than adequate. The visual timing aid was also particularly helpful as speakers were aware of how much time remained without the need to be interrupted. Three minutes tended to focus the minds of speakers to write down the most important points that they wished to convey.

4.3.4 Difference – Councillors are permitted to question speakers and enter into an exchange of dialogue with them, almost akin to a minor hearing within the Planning Committee, on each application subject to public speaking.

Comment – Members of the Planning Committee receive a considerable amount of information prior to the meeting. The aim of the Scheme for Public Participation at Planning Committee is to provide the opportunity to get over the important points that the speakers want Members to have uppermost in their minds when drawing together all the information received and coming to a decision. A mini-hearing would, in the view of the Working Group, detract from this and be a barrier to the efficient and effective decision-making process of the Committee taking account of all the relevant information that had previously been provided. In the view of the Group, the process could significantly lengthen the meetings without providing any benefit to the decision-making process.

5.0 CONCLUSIONS OF THE WORKING GROUP

5.1 The opportunity to speak at Planning Committee is valued, it supports open, transparent and accountable local government and the scheme should be introduced on a permanent basis, largely unchanged other than to:

- i) clarify that the deadline for registration is 10.00am on the working day before the meeting;
- ii) clarify the requirements for Ward Councillors wishing to speak at the Committee;
- iii) amend the scheme to allow a Parish Clerk to read a statement setting out the views of the Parish Council in the circumstance where no Parish Councillor is available to attend the meeting of the Planning Committee, subject to the required registration procedure being complied with (see Appendix 3); and
- iv) grant authority to the Borough Solicitor to review the wording of the scheme to ensure clarity without changing the fundamental elements of the scheme.

5.2 The following matters should be addressed by Officers, taking account of the view

expressed by the Working Group to enhance the administration of the scheme:

- i) review of information leaflet on the Scheme for Public Participation at Planning Committee, taking account of the suggestions put forward by the Working Group;
- ii) review of information on the website about the scheme to ensure that it is helpful and consistent, including that supported by the Planning section which was currently being revised as a result of the Planning systems thinking review;
- iii) the layout of the meeting room be configured slightly differently to ensure that no Members have their backs to the speakers, whilst ensuring that everyone is able to see the electronic clock, and a trial be undertaken of the Councillors' name labels being set out in advance of the meeting;
- iv) the Constitution be re-worded to make it more compatible with the scheme for Ward Members to register in advance to speak at meetings of the Planning Committee;
- v) the scheme to be more widely publicised, including an article in the Borough News;
- vi) training to be provided for appropriate Officers to ensure that they are fully conversant with the scheme and its operation; and
- vii) Parish Councils to be reminded that it is their responsibility to ensure that their representative puts forward the views of the Parish Council.

6.0 OTHER OPTIONS CONSIDERED

6.1 None

7.0 CONSULTATION

7.1 The review has involved extensive consultation with stakeholders and this report has been submitted to the Planning Committee for comments with the views of that Committee being reported verbally to Council.

8.0 RELEVANT COUNCIL POLICIES/STRATEGIES

8.1 Scheme for Public Participation at Planning Committee

9.0 RELEVANT GOVERNMENT POLICIES

9.1 The scheme supports the government's agenda for open, transparent and accountable local government.

10.0 RESOURCE IMPLICATIONS (Human/Property)

10.1 Included within the report.

11.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

11.1 None

12.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

12.1 None directly arising from this report.

13.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

13.1 Council – 14 April 2015
Overview and Scrutiny – 23 February 2016

Background Papers: Scheme of Public Participation at Planning Committee

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Appendices: Appendix 1 – Working Group Terms of Reference
Appendix 2 – Existing Scheme for Public Participation at Planning Committee
Appendix 3 – Representations received and comments of Working Group
Appendix 4 – Representations where no comment was required
Appendix 5 – Officer representations and comments of Working Group