

Shadow Dorset Council Executive Committee

Agenda Supplement

Date: Monday, 14 January 2019
Time: 4.00 pm
Venue: Committee Rooms A&B, South Walks House,
Dorchester, Dorset DT1 1EE

Proper Officer: Matt Prosser, Interim Head of Paid Service

For more information about this agenda please telephone Democratic Services on or Lee Gallagher I.d.gallagher@dorsetcc.gov.uk - 01305 224191

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10. ADOPTION OF THE DORSET COUNCIL CONSTITUTION	3 - 10
To receive an extract from the Local Scheme of Nomination relating to Planning decisions.	

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Extract of draft possible Local Scheme of Nomination relating to town and country planning matters (excluding highways)

To determine any application under the Town and Country Planning Legislation including:

- (a) any application submitted wholly or partly under section 73 and/or section 73A of the Town and Country Planning Act 1990;
- (b) any application for listed building consent;
- (c) any application for permission in principle and/or technical detail consent;
- (d) any reserved matter application; and/or
- (e) whether to require / impose any condition, obligation, limitation and/or any other restriction and/or any other requirement in respect thereof,

but excluding any application:

- (i) submitted by or on behalf of a Member, his/her spouse or civil partner where the application form expressly identifies the application as having been made by or on behalf of that Member, spouse or partner (as the case may be);
- (ii) submitted by or on behalf of an employee of the Council, his/her spouse or civil partner where the application form expressly identifies the application as having been made by or on behalf of that employee, spouse or partner (as the case may be) and either that employee:
 - (A) is directly involved in the processing of and/or determination of any such application; and/ or
 - (B) is a Chief Officer.
- (iii) submitted by or on behalf of the Council where the application form identifies this to be the case;
- (iv) that would in the opinion of the nominated Officer:
 - (A) be contrary to the Development Plan (as defined in section 38(3) Planning and Compulsory Purchase Act 2004 when assessed as a whole; and
 - (B) be required to be referred to the Secretary of State in accordance with any relevant direction;
- (v) for outline or full planning permission for development within Schedule 1 Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as it exists at the time of the application being received by the Council in respect of which an Environmental Impact Assessment has been submitted; and/or
- (vi) in respect of which:
 - (A)
 - (1) two or more Members have made a written representation and there remain at least two which have not been withdrawn;
 - (2) all those representations are received by the Council within 21 calendar days beginning with the date on which in relation to the application the Council first displays a site notice, or first publishes a press advert, or commences any procedure for notifying a Member (whichever is the earliest) (or such extended period as the nominated Officer considers appropriate in the circumstances); and
 - (3) in the opinion of the nominated Officer contains one or more material planning considerations;

and

- (B) the nominated Officer in consultation with the Chairman and Vice-Chairman of the Planning Committee that s/he assesses to be most relevant (or if either are absent / unavailable one or the other another Member of the relevant Planning Committee nominated by the available Member (as the case may be) or if both are absent / unavailable determined by the nominated Officer) considers ought to be referred to that Planning Committee for determination.

To undertake all action in respect of any application under any Town and Country Planning Legislation relating to any of the following:

- (a) any certificate of lawfulness including any application for a certificate of lawfulness or development (CLUEDs) and/or a certificate of proposed use or development (CLOPUDs) provided that there is prior notification of the application to any Member in whose ward the application is situated;
- (b) any prior notification, prior approval and/or any other determination relating to any permitted development provision including:
 - (i) whether any such notification/approval/determination is required; and
 - (ii) determining whether any exception, condition, limitation and/or other restriction has been met in connection with any prescribed permitted development;
- (a) any non-material amendment;
- (b) for the discharge of any condition/obligation and/or confirmation of compliance with any condition/obligation;
- (c) for approval of any scheme, design, code or other documentation submitted for approval by the Council including any application for a variation to any such approved documentation;
- (d) any advertisement including any banner may be visible from any highway;
- (e) to undertake any work to any tree in Conservation Area and/or to which a Tree Preservation Order relates;
- (f) any grant provided that this can be met from an existing budget available for such a purpose; and/or
- (g) any street furniture including any telecommunication equipment.

To undertake all action in respect of administering any application under any of the Town and Country Planning Legislation including the power to:

- (a) determine whether any application has been validly made and/or whether to decline to register and/or determine any application including to decline to determine any application which s/he considers to be a repeat application, relating to an extant enforcement action and/or as a result of the submission of inadequate/insufficient information;
- (b) determine what, and the extent of, information required in respect of any application, including any environmental impact assessment and/or any other assessment and/or report;
- (c) determine any scoping and/or screening opinion in relation to any environmental impact assessment including whether any such opinion is required;
- (d) determine whether any application should be referred/notified to the Secretary of State;
- (e) make any arrangement for a site visit;
- (f) determine whether any matter which would normally be a reserved matter should be required as part of an outline application;
- (g) determine whether to allow any amendment / variation to any application and/or

- (h) any document submitted in relation to any such application;
- (h) determine whether to refer any application to the relevant Secretary of State as a departure from the Development Plan;
- (i) determine the method and extent of consultation in respect of the notification, consultation and/or advertisement of any application;
- (j) determine whether to seek to secure the withdrawal of any application outstanding for a period in excess of six calendar months and/or to determine whether any such application should be treated as withdrawn;
- (k) authorise any change to any register or other record of the Council as a consequence of any matter that is being dealt with including any deletion and/or other modification;
- (l) determine any request for any deferment and/or withdrawal by any party; and/or
- (m) determine whether any change constitutes a minor amendment.

To prepare any local plan, action plan and/or any supplementary planning document pursuant to any of the Town and Country Planning Legislation including:

- (a) to determine whether to enter into any service level agreement and/ or contract for any associated purpose provided that any cost can be met from an existing budget within the control of the nominated Officer and/or the prior approval of the Section 151 Officer has been obtained;
- (b) the drafting of any plan and/or document including any preferred option; and
- (c) to determine whether to undertake any consultation process, any procedural issue relating to any such consultation and to consider and determine any action to take in response to any representation received;

provided that such power does not include:

- (h) making a final determination whether to submit any plan for independent examination;
- (i) making a final determination whether to accept any recommendation arising from any independent examination; and
- (ii) making a final determination whether to adopt any plan and/or supplementary planning document.

To undertake all action in in relation to any function of the Council concerning neighbourhood planning (including all functions relating to the making and approval of any neighbourhood development plan, neighbourhood development order and/or community right to build order) whether under any Town and Country Planning Legislation or otherwise including power to:

- (a) make a final determination as to whether to designate a neighbourhood plan area and/or make such an area a business area;
- (b) determine whether to submit any matter to independent examination; and/or
- (c) determine whether to appoint and the appointment of any examiner provided that any costs associated with the same can be met from an existing relevant budget and/or the prior approval of the Section 151 Officer is obtained,

provided that this does not include power to make:

- (i) a final determination as to whether to designate a neighbourhood plan area unless in his/her opinion:
 - (A) there is insufficient time to have the matter considered by the relevant committee as part of the normal committee cycle;
 - (B) the Council is legally obliged to approve the designation; and/or

<p>(C) there has been no objection to the proposal submitted to the Council within any relevant time for the submission of representations which has not been withdrawn;</p> <p>(ii) the final determination as to whether to submit any document to a referendum;</p> <p>(iii) the final determination as to whether to make a neighbourhood development order /community right to build order and the terms of any planning permission granted pursuant to a neighbourhood development order /community right to build order; and</p> <p>the final determination as to whether to make a neighbourhood development plan.</p>
<p>To undertake all action relating to any matter arising in respect of any appeal, call-in and/or other inquiry and/or hearing of whatever nature arising pursuant to any Town and Country Planning Legislation including for the avoidance of doubt but without prejudice to generality of the foregoing:</p> <p>(a) to determine any response required in relation to any procedural issue relating to any such matter including for the avoidance of doubt whether any such matter should be dealt with by means of written representation, hearing or public inquiry;</p> <p>(b) to determine any procedural issue relating to any such matter including the venue for the holding on any hearing and/or appeal; and/or</p> <p>(c) to determine whether or not to defend any reason for refusal.</p>
<p>To determine whether to delegate authority to a neighbouring planning authority to determine an application submitted under any Town and Country Planning Legislation that crosses an administrative boundary subject to prior consultation with the Chairman of the Strategic Planning Committee, or in his/her absence the Vice-Chairman of the Strategic Planning Committee.</p>
<p>To allocate and distribute funding (including authorising payment) secured in connection with any permission (including any related planning obligation or CIL payment), consent or other approval granted under Town and Country Planning Legislation subject to the decision being in accordance with any strategy and/or policy adopted by the Council.</p>
<p>To manage and implement procedures for the sale / re-sale of any low cost / discounted market housing including:</p> <p>(a) determining whether a person is eligible for consideration for the provision of such a property; and</p> <p>(b) setting a price for the sale of any such property.</p>
<p>To undertake all action relating to the preparation, maintenance and publication of all registers that the Council is required to maintain under any Town and Country Planning Legislation including Part 1 of the Brownfield Register.</p>
<p>To take action in relation to the designation of any nature reserve including to determine any application, provided that this does not include power to make a final determination to approve the designation of any nature reserve unless there has been prior consultation with at least one Member and any local Member in whose ward any nature reserve would be situated.</p>
<p>To undertake all action in order to regulate any actual, perceived or potential breach of any of the Town and Country Planning Legislation including:</p> <p>(a) any action to seek to regulate any actual or perceived breach of any notice, order, agreement, obligation and/or other document, condition, restriction and/or other limitation issued or provided for pursuant to such Town and Country Planning Legislation;</p> <p>(b) to determine whether to issue any notice including:</p>

- (i) any requisition for information;
- (ii) any planning contravention notice;
- (iii) any enforcement notice;
- (iv) any breach of condition notice;
- (v) any notice pursuant to section 215 Town and Country Planning Act 1990;
- (vi) any temporary stop notice;
- (vii) any stop notice;
- (viii) any advertisement discontinuance notice; and/or
- (ix) any replacement tree notice;
- (c) to determine whether or not to amend and/or withdraw any notice;
- (d) to determine whether to seek any injunction and/or pursue any action arising therefrom; and/or
- (e) to determine whether or not to take and/or to cease action whether because in his/her opinion the breach is trivial, there is insufficient demonstrable harm and/or, it is not expedient to take / continue to take action,

provided that this delegation does not include the power to make a final determination to:

- (i) seek any injunction and/or any make any application for contempt whether pursuant to the Town and Country Planning Act 1990 or otherwise; or
- (ii) issue a stop notice: unless:
 - (A) in his/her opinion the need to issue a stop notice is urgent;
 - (B) there is the prior approval of the Corporate Director – Legal and Democratic Services; and
 - (C) any cost associated with the issue of the stop notice can be met from a budget available for such a purpose and/or the prior approval of the Section 151 Officer is obtained.

To undertake all action relating to whether to seek to spot list any building that in his/her opinion is of architectural and/or historic interest and is or may be under threat.

To undertake all action in relation to a grant of a permission in principle for the purposes of determining whether to issue and the content of any direction as to when such permission in principle should take effect.

To undertake all action in respect of any matter relating to any actual and/or perceived fly posting whether currently occurring or otherwise including to determine whether to take any direct action and any action necessary pursuant to any such determination.

To undertake all action in connection with:

- (a) the exercise of any function of the Council as local planning authority pursuant to any Pastoral Measure whether the Pastoral Measure 1983 No 1 or otherwise; and
- (b) the provision of any response to any consultation to faculty procedure and pastoral measures relating to any alteration to of any ecclesiastical building including any scheme for redundancy.

To determine whether and how to respond on behalf of the Council to any application pursuant to any of the Town and Country Planning Legislation submitted to any other local authority subject so far as s/he considers it feasible so to do to prior consultation with any Executive Member with responsibility for planning and the Chairman of the planning committee that s/he considers most relevant to the application.

To undertake all action in connection with any proposal / application for the cancellation, revocation, deletion, modification and/or variation to any agreement, deed, undertaking

<p>and/or any other document entered into wholly or partly pursuant to any Town and Country Planning Legislation provided that such power does not extend to the approval of an application to modify, vary or revoke an agreement or planning obligation:</p> <ul style="list-style-type: none"> (a) imposed by an express decision of Planning Committee; and (b) where in his/her opinion such approval would result in a material reduction of benefit to the community secured pursuant to such agreement or obligation (as the case may be).
<p>To undertake all action in respect of the submission to the Council of any matter consequent to any permission, consent, approval and/or other determination made pursuant to any Town and Country Planning Legislation including:</p> <ul style="list-style-type: none"> (a) to develop and maintain a process for the submission of any application relating to any money secured pursuant to any planning obligation; (b) the submission of any scheme, detail and/or plan; and/or (c) to make any determination in relation to any such submission including for the avoidance of doubt any such submission to comply with any condition and/or obligation.
<p>To undertake all action in respect of:</p> <ul style="list-style-type: none"> (a) determining whether to issue any completion notice pursuant to any Town and Country Planning Legislation including for the avoidance of doubt any further action arising as a consequence of determining to issue such a notice; and/or (b) making any modification to and/or the revocation of any planning permission and/or permission in principle issued pursuant to any Town and Country Planning Legislation provided that this does not include power to modify and/or revoke any such permission: <ul style="list-style-type: none"> (i) that was expressly granted by the Planning Committee unless in his/her opinion the matter is urgent; (ii) without the prior approval of the Corporate Manager – Legal; and (iii) unless any cost associated with any such action can be met from a budget available for such a purpose and/or the prior approval of the Section 151 Officer is obtained.
<p>To undertake all action in connection with any proposal for a change/modification in any common land and/or public right of way provided that this power does not extend to confirming any such change unless in his/her opinion no objection that was submitted during any relevant consultation period remains.</p>
<p>To undertake all action for the purpose of issuing a refusal of an application submitted pursuant to any Town and Country Planning Legislation where there exists statutory power for another body or person to direct that a refusal should be issued by the Council, and that direction is exercised.</p>
<p>To undertake all action relating to making and/or confirming any type of Tree Preservation Order including:</p> <ul style="list-style-type: none"> (a) any temporary Tree Preservation Order; and/or (b) to amend, vary, modify and/or revoke any Tree Preservation Order,

provided that the ward Member in whose ward the Tree Preservation Order is situated is notified as soon as reasonably practicable after any such making, confirming, amending, varying, modifying and /or revoking (as the case may be).

To undertake all action pursuant to any Town and Country Planning Legislation in connection with:

- (a) any tree which in his/her opinion are, or may be, dangerous; and/or
- (b) an application for work to, including the felling of, a tree:
 - (i) that is subject to any type of tree preservation order;
 - (ii) within a conservation area; and/or
 - (iii) otherwise requires approval by the Council for work and/or felling to be undertaken,

provided that:

- (iv) unless in his/her opinion the need to determine such an application is urgent then notice of the application has been sent to any Member in whose ward the tree is situated at least seven (7) calendar days before a determination is made; and
- (v) the power to make any final determination in respect of any such application does not include an application made by or on behalf the Council, from an Identified Member and/or from Identified Employee .

To undertake all action in respect of any matter arising in relation to:

- (a) the issue of any building preservation notice; and/or
- (b) any urgent work that may be required in respect of any listed building,

whether pursuant to the Planning (Listed Building and Conservation Areas) Act 1990 or otherwise including for the avoidance of doubt but without prejudice to the generality of the foregoing:

- (c) to enter any building, structure (including any moveable structure) and/or on any land;
- (d) to determine whether to issue any notice;
- (e) to determine in relation to any such urgent work the extent of any work that may be required and to authorise the undertaking of any such work; and/or
- (f) to appoint/authorise any other person for any purpose relating to any of the above,

provided that in all cases:

- (g) this power does not extend to making any final determination as to whether to issue a notice unless in his/her opinion the delay in taking the matter through the normal committee cycle of the Council could be materially disadvantageous to any reason for issuing the notice; and
- (h) any cost associated with any such action can be met from a budget available for such a purpose and/or the prior approval of the Section 151 Officer is obtained.

To undertake all action in respect of any matter arising under any Town and Country Planning Legislation relating to any hedge and/or hedgerow including:

- (a) to determine whether or not to uphold a formal complaint regarding a high hedge;
- (b) to determine whether or not to issue any notice including any Remedial Notice;
and/or
- (c) to determine whether or not to vary and/or revoke any such notice.