

TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

29 June 2023

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

For recommendation to Council

1 **MEMBER CALL IN PROTOCOL – DEVELOPMENT MANAGEMENT**

Summary: This report seeks Member endorsement of a retitled and amended Protocol- Member Call ins.

1.1 Introduction

1.1.1 Prior to the election, a number of concerns were raised regarding the call-in protocol. Discussions on this issue had commenced via the Overview & Scrutiny Committee in April, however due to some technical issues with the officer presentation, this discussion could not be concluded.

1.1.2 The amended call-in procedure is aimed at making the process clearer for both Members and officers.

1.1.3 The proposed amendments to the call-in protocol include:

- A change in how the delegated authority to approve call-ins is worded, making it clear that although the formal delegation rests with the Director of Planning, Housing & Environmental Health, this will be subject to obtaining the prior approval of the relevant Area Committee Chair.
- More detailed instructions on how Members register a call in, to ensure that all call in requests are dealt with efficiently and effectively.
- A proposed approach to managing application issues that may impact on more than one ward.
- Clear target timescales for the stages of the process to be completed.
- A list of examples of potential proper planning reasons/ material considerations that could be used to call in an application (without which the call in would not be valid).

- Option for an email overview instead of a full briefing for simpler cases in agreement with the relevant committee chair.
- A proposed approach to ensuring consistency in decision making and information sharing with Area Committee Chairs.

1.1.4 **Annex 1** to this report sets the amended call-in protocol.

1.2 Legal Implications

1.2.1 s101 of the LGA 1972 permits delegation to a committee, sub-committee or officer. Therefore, the wording in the constitution needs to be amended so that the delegation continues to sit with DPHEH but subject to the prior approval of the relevant APC Chair. Ultimately, the decision must rest with an individual officer - if the dominant role in the decision is that of the APC Chair then the decision will be unlawful.

1.2.2 As the proposed protocol changes include a change in delegated authority DPHEH 100, this will require a constitutional change and therefore this report needs approval from Full Council.

1.3 Financial and Value for Money Considerations

1.3.1 Having comprehensive protocols in place will ensure appropriate skills and expertise are utilised in an efficient and cost-effective manner and ensure that potential legal challenges through judicial review are limited.

1.3.2 The protocol changes have the potential to increase the number of applications to committee given the extra clarity provided on processes and the new options available and each committee report has a financial implication in terms of increased officer time cost due to the nature of the publication requirements. However, this is considered acceptable to ensure the democratic process is fair and transparent.

1.4 Risk Assessment

1.4.1 Not having the protocols in place could delay effective decision, increase the likelihood of challenge and limit the Council's ability to make effective planning decisions.

1.5 Equality Impact Assessment

1.5.1 No issues raised.

1.6 Recommendations

1.6.1 That Members **ENDORSE** the amended protocol at **Annex 1** and **RECOMMEND** to Council that the amended text in the protocol is included in the Constitution.

1.6.2 That the Monitoring Officer be authorised to make any necessary consequential changes to the constitution.

Background papers:

Nil

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Annex 1- Development Management Officer Protocol
Member Call Ins

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