

Council

24 February 2026

Part 1 - Public

Matters for Decision



Cabinet Member	n/a
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Changes to the Constitution

1 Summary and Purpose of Report

- 1.1 This report recommends that changes are made to Rule 15.25 of the Committee Procedure Rules so as to clarify the decision-making route for items of business covered by more than one Area Planning Committee.
- 1.2 The report also recommends that a definition is provided for the term 'risk of significant costs' for the purposes of Rule 15.24 of the Committee Procedure Rules.

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 The proposals in this paper will contribute to the above priority area by ensuring that planning applications are determined in the most efficient and equitable way.

3 Recommendations

- 3.1 Members are requested to agree to the changes to Committee Procedure Rules 15.24 and 15.25 as set out in paragraphs 4.4 and 4.9 below.

4 Introduction and Background

Rule 15.25

- 4.1 Rule 15.25 of the Committee Procedure Rules currently provides as following –

'If an item of business relates to the area covered by more than one Area Planning Committee, the matter shall be reported to both of the Committees concerned and the recommendations of both Committees shall be reported to

Council for decision. However, if both Committees are agreed on their recommendations, the Director of Planning, Housing & Environmental Health may proceed to determine the application in accordance with those recommendations prior to consideration of those recommendations by the Council'

4.2 The existing wording of this rule leaves a degree of uncertainty as to the final decision maker in cases where both Committees are agreed on their recommendations, in that it provides for the Director of Planning, Housing and Environmental Health **to determine the application in accordance with those recommendations prior to consideration of those recommendations by Council** (my emphasis in bold). This suggests that Council would still consider the recommendations of both Committees, even if they were in agreement. However, if the Director is authorised to determine the application in such circumstances, there is nothing further for the Council to consider. This uncertainty is unhelpful for the effective discharge of our planning functions.

4.3 In order to remove this uncertainty, it is proposed to amend Rule 15.25 so that it reads as follows:-

'If an item of business relates to the area covered by more than one Area Planning Committee, the matter shall be reported to both of the Committees concerned and the recommendations of both Committees shall be reported to Council for decision. However, if both Committees are agreed on their recommendations (including reasons for their recommendations and any conditions to be attached to a grant of permission), the Director of Planning, Housing & Regulatory Services may proceed to determine the application in accordance with those recommendations'

4.4 The proposed amendments will ensure that the determination of a planning application shall remain a matter for Council, unless both Area Planning Committees are agreed on both the proposed recommendation and the reasons for refusal or, in the case of a proposed approval, the conditions to be attached to the approval. In that situation the Director of Planning, Housing and Regulatory Services would determine the application, with no further consideration by full Council.

Rule 15.24

4.5 Rule 15.24 of the Committee Procedure Rules currently provides as following:-

'If, contrary to a recommendation of the Director of Planning, Housing & Environmental Health, an Area Planning Committee is minded to determine an application in a way or on grounds which the Director does not consider can be substantiated, a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to the next meeting of the committee to enable the Director of Central Services and Monitoring Officer to submit a report on the possibility of costs or compensation being awarded against the Council in the event that the application is determined in that way.'

If the Director of Central Services and Monitoring Officer's report indicates that there is likely to be a risk of significant costs being awarded against the Council at any appeal, or a potential liability to pay compensation, the committee may not determine the application in a manner contrary to the advice set out in the report, and a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to Council for determination.'

- 4.6 At the time of approving the most recent changes to this rule (24 October 2023), the Head of Planning, having discussed the matter with the Director of Finance & Transformation advised Council that costs of £5,000 plus would represent a 'significant cost'. This has been adopted as an informal guide since October 2023.
- 4.7 The application of an informal £5,000 threshold has led to some relatively minor planning applications being reported to Council for determination, which was not the intention of Rule 15.24. The Rule was intended to ensure that where Planning determinations could have an unplanned impact on the Council's financial position, that should be considered by Members ahead of a Planning decision being made to ensure appropriate due diligence on decision making. We have therefore taken the opportunity to review what the appropriate financial threshold should be for the purposes of engaging this rule.
- 4.8 Having consulted with the Head of Finance and the Director of Planning, Housing and Regulatory Services, it is proposed that a financial threshold of £50,000 should apply, such a figure to include both the Council's costs of defending an appeal, together with an estimation of a potential sum the Council could be liable to pay in the event that an award of costs was made against it by a Planning Inspector. To avoid any uncertainty, it is proposed that Rule 15.24 should be amended to incorporate this financial threshold.
- 4.9 It is therefore proposed to amend Rule 15.24 as set out below:-

'If, contrary to a recommendation of the Director of Planning, Housing & Regulatory Services, an Area Planning Committee is minded to determine an application in a way or on grounds which the Director does not consider can be substantiated, a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to the next meeting of the committee to enable the Director of Central Services and Deputy Chief Executive to submit a report on the possibility of costs or compensation being awarded against the Council in the event that the application is determined in that way.'

If the Director of Central Services and Deputy Chief Executive's report indicates that there is likely to be a risk of significant costs being incurred by the Council in defending any appeal, the committee may not determine the application in a manner contrary to the advice set out in the report, and a resolution by the*

committee to make such a determination will be a recommendation only and the application shall stand adjourned to Council for determination.

**'significant costs' mean costs of £50,000 or more, calculated by reference to estimated costs of the Council in defending any appeal together with any potential liability to pay the costs of the appellant in the event of an adverse costs award'.*

5 Other Options

5.1 The other options considered were:-

- Make no changes to the existing rules
- Amend the rules so as to allow for a different definition of 'risk of significant costs'

5.2 In light of the comments made in paragraphs 4.3 to 4.5 above, it is not considered that the rules should remain unaltered, or that a different definition of 'significant costs' should be included.

6 Financial and Value for Money Considerations

6.1 The Planning service has an identified appeals budget of £100,000 in 2025/26 rising to £120,000 in 2026/27, which is in place to manage small scale appeals that routinely occur. Given the uncertain nature and timing of the risk of larger scale appeals that would incur 'significant' costs, it would not be appropriate to build provision for this potential into the budget on an ongoing basis.

6.2 Should any Planning decisions referred to Council be appealed, there will be a supplementary estimate proposed to provide budget to defend the appeal.

7 Risk Assessment

7.1 The proposed amendment to Rule 15.25 will remove the uncertainty that currently exists in the application of this rule.

8 Legal Implications

8.1 Article 10 of the Constitution sets out the procedure for review and revision of the Constitution. Except in specified circumstances, changes to the Constitution may only be approved by full Council after consideration of a report on the proposal from the Council's Monitoring Officer.

9 Consultation and Communications

9.1 If agreed, the amended constitution would be published via mod.gov.

10 Implementation

10.1 If agreed, the changes will be implemented with immediate effect.

11 Cross Cutting Issues

11.1 Climate Change and Biodiversity

11.1.1 Limited or low impact on emissions and environment.

11.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

11.2 Equalities and Diversity

11.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background Papers	None
Annexes	None