

Title of Report:	Council Constitution - Review and Amendments
Committee Report Submitted To:	Corporate Policy and Resources Committee
Date of Meeting:	26 January 2021
For Decision or For Information	For Decision

Linkage to Council Strategy (2019-23)	
Strategic Theme	Leader and Champion
Outcome	Establish key relationships with strategic partners to deliver our vision for this Council area
Lead Officer	Head of Policy and Community Planning

Budgetary Considerations	
Cost of Proposal	
Included in Current Year Estimates	YES/NO
Capital/Revenue	
Code	
Staffing Costs	

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	Yes/No	Date:
	EQIA Required and Completed:	Yes/No	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No	Date:
	RNA Required and Completed:	Yes/No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No	Date:
	DPIA Required and Completed:	Yes/No	Date:

1.0 Introduction

- 1.1 A Council is required, under section 2 of the Local Government Act (Northern Ireland) 2014, to prepare and keep up-to-date a Constitution.
- 1.2 Causeway Coast and Glens Borough Council agreed their new Constitution in October 2015. This governs how the Council operates, how decisions are made, and the procedures which are to be followed to ensure efficiency, transparency and accountability to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.3 The Council's Constitution is divided into sixteen Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate Rules and Protocols at the end of the document.

2.0 Proposed Amendments to Council Constitution

- 2.1 Please see below proposed amendments to the Council Constitution:

Item	Proposed Amendment
Part 3 – Rules of Procedure (3.4 Standing Orders)	Adopt revised Protocol for the Operation of the Planning Committee (copy attached as Appendix 1) and revise Standing Orders accordingly. Replace link to Standing Orders with link to revised Standing Orders

3.0 Recommendation

It is recommended that the Corporate Policy and Resources Committee recommend to Council approval of the proposed amendments to the Council Constitution as outlined in item 2.1.

Implementation Date: 26 November 2020

Protocol for the Operation of the Planning Committee

1.0 Introduction

1.1 The Causeway Coast and Glens Borough Council, at its Planning Committee meeting held on 25 November 2020, agreed the revised 'Protocol for the Operation of the Planning Committee'. The revised Protocol takes effect on 26 November 2020. This revised document sets out the detailed procedures of the Planning Committee that are not covered by the Council's Standing Orders and Councillors' Code of Conduct.

1.2 The Protocol will cover the following:

- Preliminary Matters
- Remit of the Planning Committee
- Frequency of Meetings
- Referral of Delegated Applications
- Format of the Planning Committee meetings
- Decisions Contrary to Officer Recommendation
- Site Visits
- Pre-Determination Hearings

2.0 Preliminary Matters

2.1 The following information will be circulated to Committee Members prior to the monthly Planning Committee meeting:

- A weekly list of all new planning applications received and planning applications decided will be circulated to all Elected Members.
- A list of all contentious delegated planning applications where the decision is ready to issue will be circulated to elected members on a weekly basis. A contentious application is one where the decision is to refuse permission. This list will be circulated to all elected members on the Tuesday of each week and uploaded onto the Council website. Elected Members will have until 10am on the Monday of the following week to request a referral, in accordance with Part B of the 'Scheme of Delegation for the Planning Department, otherwise the decision notice will issue.
- A summary report of performance in the processing of planning applications will be presented to Committee on a monthly basis.

- All Committee Members will normally be sent the agenda in advance of the meeting with a report on each planning application to be considered at the meeting by the Committee.
- Members of the public must not circulate information directly to Members of the Planning Committee. This information will only be considered if submitted directly to the Planning Department or via planning@causewaycoastandglens.gov.uk .
- Updated information received after the agenda has issued will be circulated to Members. The Planning Officer shall prepare an addendum report(s) to advise Members about the consideration of any updated information received since the agenda issued that is required to inform a decision. If the information is received after 10am on the Friday prior to the Committee meeting, the Officer will advise Members verbally in respect of same.
- Planning Committee meetings should normally be open to the public.
- Substitute Members shall not be permitted to deputise, unless agreed by both the Chair of the Committee and the Head of Planning, and only in exceptional circumstances.
- Legal representation may be in attendance at Committee.
- All members of Planning Committee must have taken the requisite training for either Member or Chair role before they can sit on the Committee.

3.0 Remit of the Planning Committee

3.1 Development Management

The main role of the Planning Committee is to consider applications made to Causeway Coast and Glens Borough Council as detailed in the adopted Scheme of Delegation and decide whether or not they should be approved. The decisions of the Planning Committee are taken under full delegated authority and will not go before full council for ratification.

3.2 Development Plan

The Planning Committee's role in relation to the local development plan is to approve the Plan Strategy and Local Policies Plan before it is passed by resolution of the full Council. The Planning Committee should ensure that the local development plan, once adopted, is monitored annually and reviewed every 5 years, giving consideration as to whether there is a need to change the Plan Strategy or Local Policies Plan.

3.3 Enforcement

The Planning Committee shall have an overview role of the enforcement function and officers shall prepare a quarterly report on the enforcement performance (number of cases opened, cases closed, notices issued and convictions obtained). The Planning Committee can request a report from

officers on any enforcement matter but should not make a decision. Officers will exercise discretion when discussing sensitive enforcement matters at the Planning Committee to ensure possible future legal proceedings are not prejudiced.

4.0 Frequency of Planning Committees Meeting

4.1 The Planning Committee will normally meet at least once every calendar month. Additional meetings will be at the discretion of the Chair of the Committee with the consent of the Committee Members. No meeting will take place in the month of July. Meetings will conclude no later than 8pm unless otherwise agreed by Committee Members. Any items on the agenda that have not been considered at that time will be adjourned for consideration at a reconvened meeting.

5.0 Referral of Delegated Applications to Planning Committee

5.1 The Scheme of Delegation, approved at the Planning Committee meeting held 26 February 2020 and agreed with the Department for Infrastructure on 30 March 2020, taking effect from 01 May 2020, includes a procedure which allows for Elected Members and Head of Planning to request that the Planning Committee determines an application rather than it being delegated to Officers. Members of the public will not be able to directly request this procedure. Any referral by an Elected Member of Council's Planning Committee must be based on clearly specified planning grounds. The request should be emailed to planning@causewaycoastandglens.gov.uk prior to 10am on the Monday following the issuing of the contentious list. The planning reasons for the referral request will be considered by the Head of Planning or other authorised officer and the Chair of the Planning Committee and/or Vice-Chair following the deadline for receipt of requests. Only those applications that are considered to have sound planning reasons will be agreed to be determined by the Planning Committee. The Elected Member will be advised of the decision on the referral request.

6.0 Format of Planning Committee Meetings

6.1 The Committee meetings will be conducted following the below format:

- Notice of Meeting
- Apologies
- Declaration of Interests
- Approval of minutes of the previous meeting
- Requests for deferral for site visit
- Order of Items and Confirmation of Registered Speakers
- Schedule of Planning Applications
- Performance Management Statistics Report
- Development Plan matters
- Correspondence
- Legal issues

6.2 Declaration of Interests

Members will be required to declare any interests they have on the agenda items and remove themselves from the Chamber for the duration of the consideration of that item. The Member(s) will only be invited back into the Chamber to speak on the application if they have registered to do so and must leave again thereafter. Otherwise they must remain outside of the Chamber until invited back prior to consideration of the next agenda item.

6.3 The following procedures will apply for each application:

(i) **Introduction of planning application by the planning officers**

The planning officer presents the application and makes a recommendation on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown to demonstrate the proposals.

(ii) **Elected Members Questions to Planning Officer**

Members can ask points of clarification from the Officer

(iii) **Representations – Objector(s)**

The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.

The total time allowed for representations from objectors will be a maximum of 5 minutes. Therefore if 2 objectors wish to address the Committee they will each have a maximum of 2 minutes and 30 seconds. A spokesperson for the objectors may address the Committee on behalf of all objectors. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.

Speakers are not permitted to display information or circulate documentation at the meeting to Members.

(iv) **Elected Members Questions to Objector(s)**

Elected Members can ask points of clarification/fact from the objector(s).

(v) **Representations on behalf of applicant – applicant, agent and supporter**

The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.

The total time allowed for representations from applicant, agent or supporter will be a maximum of 5 minutes. Therefore if applicant and a supporter wish to address the Committee they will each have a maximum of 2 minutes and 30 seconds. A spokesperson for the supporters may address the Committee on behalf of all supporters. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.

Speakers are not permitted to display information or circulate documentation at the meeting to Members.

- (vi) Elected Members questions to applicant, agent or supporter**
Elected Members can ask points of clarification/fact from the applicant, agent or supporter(s).
- (vii) Representation by Elected Members of Council, MLA and/or MP**
The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.

The total time allowed for representations by Elected Members of Council, MLA and/or MP will be 5 minutes in support and in objection to an application. Therefore if 2 speakers wish to address the Committee one in support and one in objection to the application, they will each have 5 minutes. However, if 2 Elected Members wish to address the Committee in support of the application, or 2 in objection to the application, they each will have a maximum of 2 minutes and 30 seconds each. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.

Speakers are not permitted to display information or circulate documentation at the meeting to Members.

- (viii) Planning Officer's and Consultee comments**
Officer(s) and Consultee representatives can clarify points raised by those who made representations to the Committee and answer any further points of clarification from Members.
- (ix) Elected Members' debate including advice from Officers**
Elected Members debate on the planning issue with the aim of having a constructive discussion on the merits of the planning application.
- (x) Elected Members' decision**
The Chair should ask the Committee if it is ready to vote on the application and provide a reminder of the proposal.

An Officer, and/or Legal Adviser may advise Members on the implication of the vote in either direction.

A Member must make a proposal and this must be seconded by another Member before a vote can be taken. The Chair has the casting vote.

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

Members can defer consideration of an application to a subsequent meeting for further information, further negotiations or a site visit. The Member proposing the deferral must provide clear planning reasons as to why a deferral is necessary. A proposal for a deferral must be seconded by another Member before being voted on. Consideration of an application should only be deferred once.

Members can add conditions to an approval decision or add reasons for refusal to a refusal decision but they cannot amend the application by condition (for example amend the layout or reduce the number of units). Any additional conditions or reasons for refusal must be proposed and seconded before being voted on by Members. Members should be aware of the legal tests for conditions as these can be appealed to the Planning Appeals Commission and challenged through the courts – they should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. The Planning Officer and/or Legal Adviser should provide advice as necessary.

The planning reasons for any decision which is made contrary to the Planning Officers' recommendation will be formally recorded in the minutes and a copy placed on file.

6.4 Speaking Rights

All parties wishing to address the Committee on a planning application must register their wish to do so with the Planning Department either in writing to Planning Department, Cloonavin, 66 Portstewart Road, Coleraine BT52 1EY or by emailing planning@causewaycoastandglens.gov.uk. All requests to address the Committee on a planning application must be received by **10am on the Friday immediately prior to the Planning Committee meeting** and must provide their name, whether they are speaking in support or objecting to the application and the planning reference number of the application on which they wish to speak. Only those registered to speak within the timeframe will be allowed to address the Committee either to speak or answer questions.

If the speaker is a Planning Committee Member they can remain in the public gallery during the presentation of the application by the officer and listen to the speakers, however they must leave the Chamber during Members debate and decision of that item.

On occasion where the consideration of an application is deferred by Members to a subsequent Committee meeting, those who have previously registered to speak on that application will be allowed to address the Committee at the subsequent meeting without the need to register to speak again.

6.5 The Chairman may:

- (a) Suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting; or,

- (b) Vary the order of representations if he/she feels that it is convenient and will assist the Committee in dealing with the matter provided that it will not cause prejudice to the parties concerned.
 - (c) Vary the order of applications if he/she feels that it is convenient and will assist the Committee in dealing with the matter provided it will not cause prejudice to the parties concerned.
- 6.6** In lieu of speaking, Council Members and members of the public may submit representations in writing for consideration by the Committee. Written representations must be received by the Planning Department or via email at planning@causewaycoastandglens.gov.uk by **10am** on the Friday prior to the Planning Committee meeting and will be reported to the Committee via an Addendum Report. Representations in lieu of speaking received after this time will be returned.
- 6.7** An application scheduled for determination at the Planning Committee will not be withdrawn from the schedule due to failure of interested parties to register their request to speak within the above specified timeframe.
- 6.8** An application may be withdrawn from the schedule at the Chair's discretion and only in exceptional circumstances. Verification of the exceptional circumstances must be submitted via planning@causewaycoastandglens.gov.uk by 12 noon on the Tuesday prior to the Committee meeting for discussion with the Chair.
- 7.0 Decisions Contrary to Officer Recommendation**
- 7.1** On occasion, the Planning Committee may determine an application contrary to Planning Officers' recommendation. Where the Committee makes such a decision it must be based on sound, clear and logical planning reasons, linked to the development plan and relevant planning policy and must be articulated prior to Members voting on the proposal.
- 7.2** Planning Officer(s) and/or Legal Adviser(s) will have the opportunity to explain the implications of the Planning Committee's proposal to determine the application contrary to the Officers' recommendation prior to Members voting on the proposal. Consideration will need to be given as to whether the decision is capable of being defended at an appeal to the Planning Appeals Commission with the potential for award of costs against Council or defended if challenged through a judicial review.
- 7.3** The reasons for any decision which are made contrary to the Planning Officers' recommendation must be formally recorded in the minutes and a copy placed on file.
- 8.0 Site Visits**
- 8.1** It is recognised that Members of the Planning Committee may need to visit a site to help them make a decision on a planning application. For example, the

proposal may be difficult to visualise or the application is particularly contentious.

- 8.2** The Planning Committee will determine whether to defer the determination of an application for a site visit. The site visit will normally be scheduled to take place prior to the next scheduled Planning Committee meeting.
- 8.3** An officer of Council should contact the applicant / agent to arrange access to the site where necessary. Invitations will be limited to Members of the Planning Committee; Council Officers and consultees to the decision-making process.
- 8.4** Site visits are not an opportunity to lobby Elected Members or be used to seek to influence the outcome of a proposal prior to the Planning Committee meeting. There shall be no public speaking on site visits. Therefore, members of the public cannot attend site visits.
- 8.5** Elected Members should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land. Furthermore, they will not have the information provided by the Planning Officer, and, in some circumstances, it might lead to allegations of bias.
- 8.6** Attendance of site visits is optional. However, when an application has been deferred at Planning Committee for a site visit, the proposer and seconder must be in attendance at the site visit otherwise they cannot take part in the determination of that application when it is presented to Planning Committee for determination at a subsequent meeting. The Planning Officer shall record the date of the visit, attendees and any other relevant information in the form of a written report which should be presented to the Planning Committee Meeting at which the application is to be determined.

9.0 Pre-Determination Hearings

- 9.1** The Planning Committee has a mandatory requirement to hold Pre-Determination Hearings for those major applications which have been referred to the Department for 'call-in' consideration, but have been returned to the Council for determination. The Planning Committee will be required to hold a Hearing prior to the application being determined. In addition, Council may also hold Pre-Determination Hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support or against the proposed development.
- 9.2** The intention is to make the application process for major applications more inclusive and transparent by giving applicants and those who have submitted representations the opportunity to be heard by Council before it takes a decision.
- 9.3** It will be a matter for the Chair of the Planning Committee and Head of Planning to judge when a Pre-Determination Hearing is appropriate, taking

account of the relevance of the objections in planning terms, the complexity of the application and level of pre-application community consultation.

- 9.4** When holding a Pre-Determination Hearing the procedures will be the same as the normal Planning Committee meetings. The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. The number of individuals to speak on either side, time available etc will be agreed prior to the Hearing. If the Planning Committee decides to hold the Hearing on the same day as it wishes to determine the application, the Planning Officer's report should contain a recommendation. A power-point presentation as part of the speaking rights will be allowed at the Hearing.

10.0 Recess

- 10.1** When the Planning Committee meeting lasts longer than 2 hours a minimum 15 minute recess shall be taken at 2-3 hourly intervals.

11.0 Confidential Matters

- 11.1** In the event that the Planning Committee resolve to go 'In Committee' only Members of the Planning Committee, Council Officers in attendance and Legal Adviser(s) shall remain within the Council Chamber. All members of the public, press etc. must leave the Chamber including those Members of the Planning Committee who have declared an interest on that item and other Members of the Council who do not sit on the Planning Committee.