

Member Briefing:

Amended Scheme of Delegation to Officers
approved at 14th March Planning Committee



What will the briefing cover?

- Amended Scheme of Delegation to Officers
- Changes to the Protocol on Planning Committee (including its title) to facilitate public speaking arrangements
- Clarification in relation to late representations and other minor amendments



Why has there been a review?

- Requirement of Council's Constitution (Part C) – Responsibility of Functions requires C17, 13 that the SoD 'is reviewed as necessary and at least annually'
- To respond to changes on the horizon in terms of expectations for speed of planning decisions, including government aims to upskill professionals, tackle backlogs in poorly performing Councils (not NSDC)
- Government has increased planning fees to improve performance and has introduced financial support to assist those local planning authorities with clearing application backlogs.

Written Ministerial Statement (19 December 2023) states:

“We are clear that an increase in planning fee income and resourcing to local planning authorities must lead to improved performance. It is our intention to introduce a new planning performance framework once we have increased planning fees and invested in supporting the capacity and capability of planning departments. However, we recognise that local planning authorities need a period of adjustment to any new planning performance framework, and we would reiterate our commitment to consult further on detailed proposals, including thresholds, assessment periods and transitional arrangements from the current performance regime.

As part of that reporting, we will expose the way in which some local authorities drag their feet. We will strip out the use of Extension of Time agreements, which currently mask poor performance. While I recognise that there will be instances where such agreements are necessary, I am concerned by the increase in their use – in particular for non-major applications, where the figure has jumped from 9% during the two years to March 2016 to 38% during the two years to March 2022. I therefore intend to consult on constraining their use, including banning them for householder applications, limiting when in the process they can apply, and prohibiting repeat agreements.”



On Planning Committees

“On planning committees, we rightly see elected representatives judge the merits of significant applications – and it is vital that they focus their time on applications that truly merit such scrutiny, and arrive at decisions following legitimate reasoning. On this basis, I have asked the Planning Inspectorate to start reporting to the department about cases where a successful appeal is made against a planning committee decision, and the final decision is the same as the original officer’s recommendation. The overturning of a recommendation made by a professional and specialist officer should be rare and infrequent – such that I have reminded the inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer’s recommendation, it should consider awarding costs to the appellant.”

Planning Committee

Item 06

23/02117/S73M

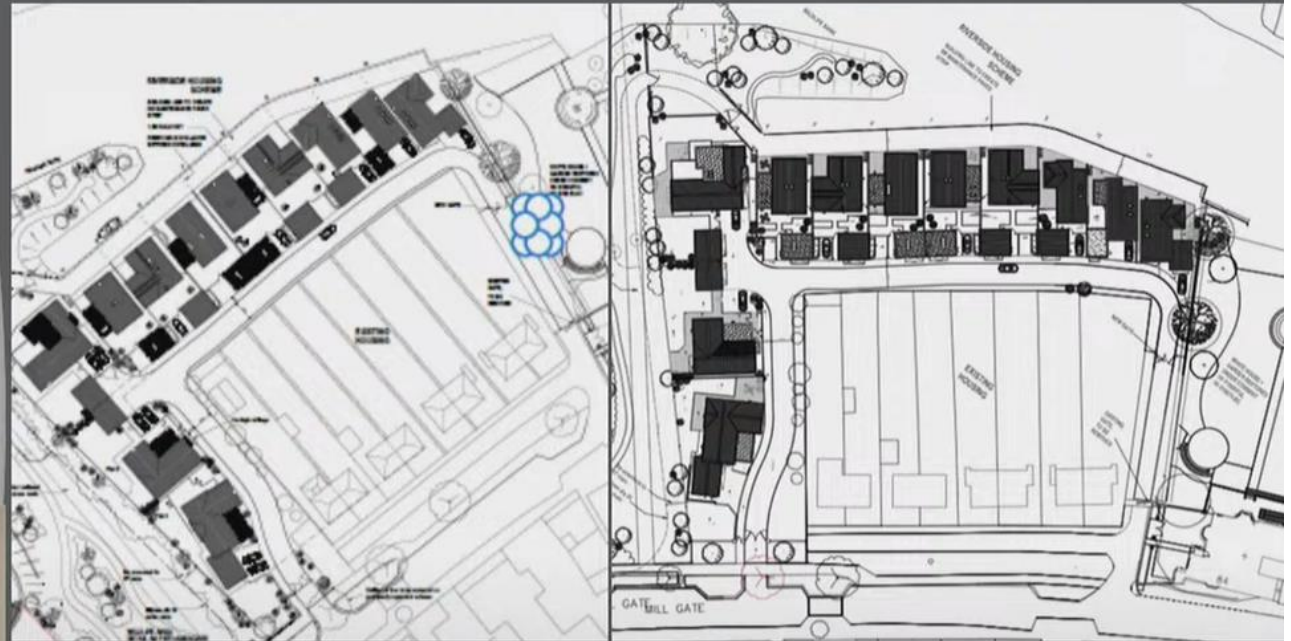
Land Off

Mill Gate

Newark On Trent

Approved Layout

Proposed Layout





Amended Scheme of Delegation to Officers

- As mentioned earlier, Part C of the Constitution (C17, 13) enables Councillors to reserve matters to Committee in certain circumstances prescribed by a Scheme of Delegation (reviewed annually). NB - this Scheme of Delegation is supplementary to the delegation contained within the Constitution.
- The Scheme of Delegation previously included a 5-day referral process that applied to any application (except those specifically excluded due to time constraints) to Ward members when the recommendation of Officers was different to the response from the Town/Parish Council.
- This is replaced with: **“Ward member referral – when referred as set out within the Protocol for Planning Committee within the 21 calendar days from the emailing of the weekly list or within 10 calendar days of the notification of any significant amendments to applications. Calendar days does not include any bank or public holiday in England and Wales.”**

Requests to Refer Items to Planning Committee

- District Members may wish to request the referral of sensitive or controversial planning applications, that would otherwise be delegated to Officers, for decision by the Planning Committee. **Members can submit a referral request for any planning applications within their Ward. Adjoining Ward Members may also refer applications where the application site is within 100 metres of the Ward boundary and would have significant impact upon that adjoining Ward.** Applications subject to strict time limits for determination are excluded and include prior notification and/or approvals, works to trees in a conservation area and certificate of lawfulness.
- **Referrals should be made, in writing and setting out the reasons for the referral, as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications, but within 21 days (excluding bank holidays) of the distribution of the weekly list or within 10 days of notification of significant amendments to applications.** Referrals can only be made once an application has been validated.
- Ward (or adjoining Ward) Members who have referred an application to Planning Committee are able to speak to the Planning Committee.

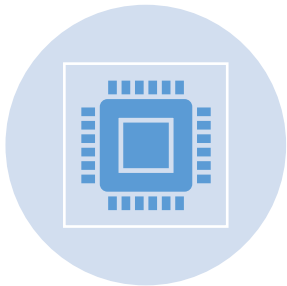
A referral request must be based on the following circumstances:



The application has attracted an unusually high level of public interest raising material planning considerations to the development being considered, which might be reflected in the number of letters or emails, or a petition received in connection with the application.



There has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.




The application has wider ramifications of more than just local interest.



Any other reasons based on individual planning merits and circumstances of the application.





Making a referral request

Referral requests by the Ward Member should set out in writing, preferably email:

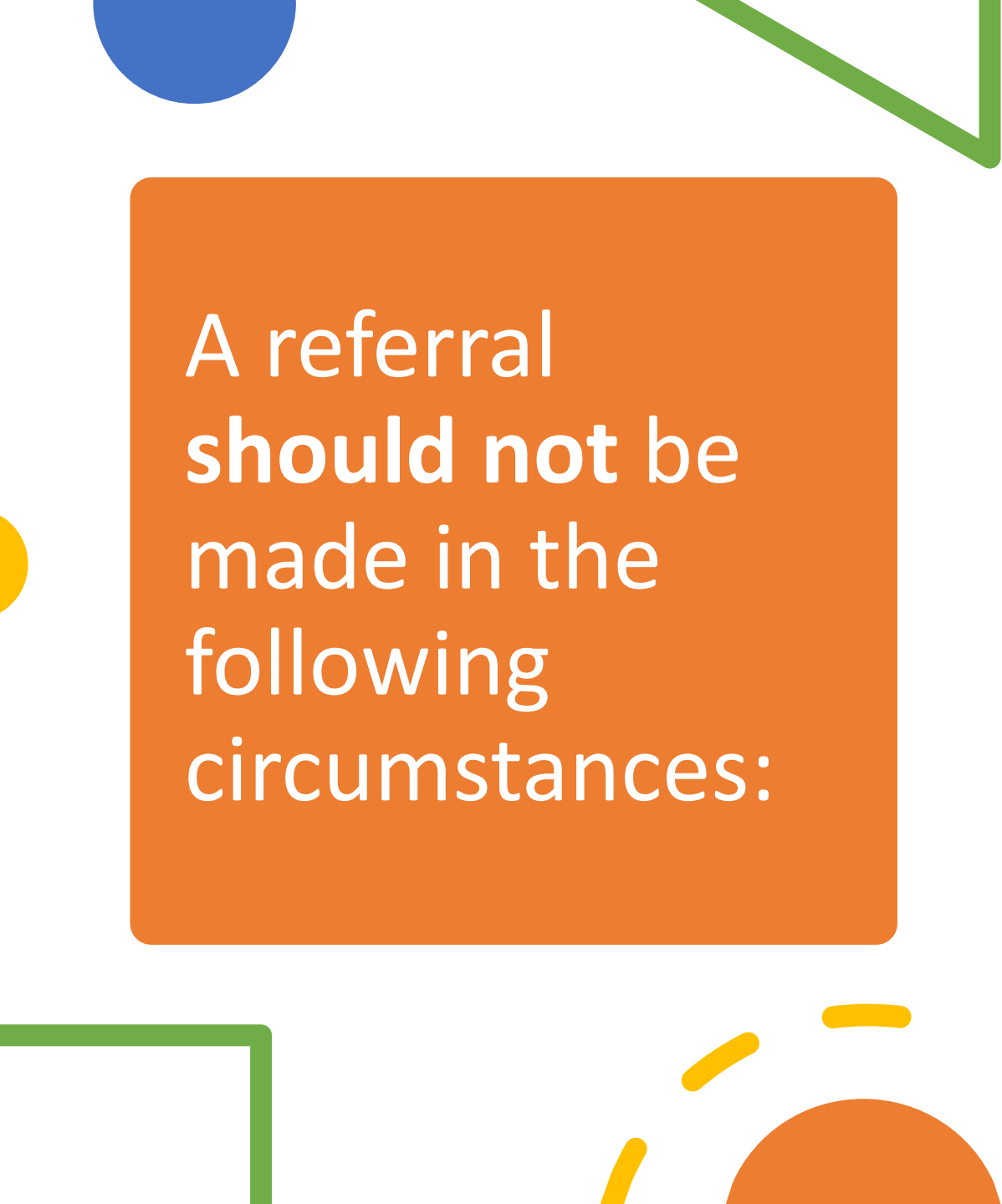
- **a statement outlining material planning reasons why the proposal needs to be considered by Committee** i.e. how it falls within the criteria set out in Protocol;
- a list of related Development Plan policies (or part of) and, where applicable, national planning policies (including paragraph numbers).

Referral requests by Adjoining Ward Members must also set out how:


- in their opinion the application would have a material planning impact on the whole or part of their ward (or the District as a whole or part) having regard to the nature of the development, and
- shall notify the relevant host Ward Member(s) prior to the referral.

Should amendments be received including plans/documents that are subject to re-consultation/notification which result in new material planning impacts not previously notified of, the relevant Ward Member or adjoining Ward Member may refer the application to Planning Committee within 10 days of the notification and subject to the referral criteria set out within this Protocol.

Exceptions to the referral process are those applications which are subject to strict time limits for determination including, but not limited to, Works to Trees in a Conservation Area, Prior Notifications, Prior Approvals and Certificate of Lawfulness proposals.



A referral
should not be
made in the
following
circumstances:

- To resolve a disagreement between an applicant and the objector(s) to an application; or
 - Because the applicant considers that there is more likelihood of a grant of permission if the application is referred to the Committee for a decision; or
 - Because the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to the Committee for a decision; or
 - Because the applicant/objector does not agree with the advice given by a Planning Officer.
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Public speaking arrangements

- Part B of Constitution sets out arrangements for public participation.
- The purpose of public speaking is to allow Members of the public, agents, supporters, Parish/Town Councillors, and Newark and Sherwood District Members to speak to the Planning Committee on a specific planning application before the Committee and bring to the Committee's attention concerns already raised during the statutory consultation process.
- Although Planning Committee meetings are held in public, they are not public meetings; as a result, a person, who is not attending as a Member or Officer of the committee, may only speak to the committee if they have registered to speak as shown below. NB - this does not interfere with the right of a Member, who is attending as a Member of the Committee, to address the Committee on any application submitted for consideration.
- Speakers are expected to make verbal presentations only. Speakers may not circulate statements, papers, photographs or other documents or make slide presentations at meetings of the Committee.
- Messages should never be passed to individual committee Members, either from other Members or from the public. This could be seen as seeking to influence that Member improperly and will create a perception of bias that will be difficult to overcome.
- Speeches made at the Committee will not be recorded in the minutes of the meeting verbatim.



Who May Speak to a Planning Committee Meeting

All Speakers

- A request to address a specific committee meeting will only be accepted if it relates to a planning application included in the agenda for that meeting.
- No speaker is allowed to address the Committee more than once or for more than **3 minutes**.



Members of the Public, Agents, and Applicants

Any member of the public, agent, and/or applicant may address the Committee subject to the rules of the Committee Protocol. Only Members of the public who have made representation to the application at the time of the agenda being printed will be permitted to speak unless otherwise agreed by the Business Manager - Planning Development in consultation with the Chairman and/or Vice-Chairman of Planning Committee.



Ward Members

- A Newark & Sherwood District Member, who is not attending the Committee as a Member of the Committee and represents the Ward within which the application site is wholly or partially situated may address the Committee.
- A Member shall also have the right to make representations for applications outside their ward area in circumstances where the application site is within 100m of the Ward boundary and it can clearly be demonstrated to the satisfaction of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their ward area.

Parish/Town Councillor (incl. Parish Meetings)

- Any Parish/Town Councillor or the clerk who represents the Parish or Town Council within which the application site is wholly or partially situated may address the Committee. As such they will be bound by their own Authority's rules on conduct. Any professional agent or other third party appointed by the Town/Parish Council shall have no right to speak at Committee.
- An adjoining Parish/Town Councillor or clerk wishing to speak to Planning Committee may do so when it can be demonstrated to the satisfaction of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their parish/town area and the host Parish/Town Councillor or clerk is not registered to speak.



Statutory Consultees

Any statutory consultee who has made representation to the application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) or internal consultee to the Council. However, other consultees who are not statutory may be permitted to speak with the agreement of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee.

One representative for each Statutory Consultee is able to speak.

Registering to Speak



All requests to address the Committee must be in writing. These should be made via the website. General enquiries may be sent to the Democratic Services Team by emailing: committees@newark-sherwooddc.gov.uk or by letter sent to: Democratic Services Team, Newark & Sherwood District Council, Castle House, Great North Road, Newark, NG24 1BY.



It is strongly recommended that speakers submit requests via the online form as these can be picked up more quickly.



If a speaker does not register in full accordance with the Protocol, they will not be allowed to speak, and the Committee will decide the application without their involvement.



All those who have registered to speak will be notified 48 hours in advance of the meeting by Democratic Services. The notification will confirm whether or not the request has been accepted.

Members of the
Public, Agents,
Applicants,
Supporters
Parish/Town
Councillors
and/or Statutory
Consultees

Requests to speak at the Committee must be received by Democratic Services Team by no later than 72 hours before the start of the meeting

The following information is required when registering to speak at the Committee:

- Contact details, including email address, of the person(s) or organisation(s) who will be addressing the meeting
- application number and details of the relevant application
- whether the speaker is supporting or opposing the application
- that the speaker is happy for their details to be shared with others who register the same request to speak.

Ward Members

Any Member wishing to exercise their right to speak under this provision shall be required to first notify the Council's Democratic Services team 72 hours before the meeting that they wish to make representations and, if the application site is outside their ward area but within 100m of the boundary, the reasons why they consider that the application will have a material impact on the whole or part of their ward area.

The following information is required when registering to speak at the Committee:

- application number and details of the relevant application
- whether the deputation is support or opposition of the application

Only one Ward (or Adjoining) Member can speak on each application unless they have opposing views. The Ward Member will have the right to speak in the event that Ward and Adjoining Ward Members wish to speak. In the event that more than one Ward (or Adjoining) Member wishes to speak, the first to register will have the right.

Limit on the Number of Speakers

- In the event that more than one person wishes to speak as an objector, we will arrange to put them in touch with the other interested people so that they can agree between them who should speak on behalf of all the objectors. If agreement cannot be made, the person in closest proximity to the application site will have the right to speak. Should those wishing to speak be the same distance from the application site, the first person to register as an objector will have the right.
- Only one person can speak in support of an application. Priority will be given to the applicant or their agent. In the event that more than one person wishes to speak and they are not the applicant or their agent, the same process as set out above will take place.
- Only one Parish/Town Councillor will be able to speak to the Committee on each application. The host Parish/Town Councillor will have the right to speak in the event more than one wishes to speak.





Public speaking

Speakers are permitted to make verbal representations only; slides or any other audio or visual presentations are not permitted.

Speakers may, if they wish, send a written copy of their proposed speech to the Democratic Services Team before the start of the meeting. Subject to below, such texts will not be circulated to Members or Officers of the Council but will be referred to in the minutes of the meeting and published after the meeting has ended.

Speeches are not recorded verbatim in the minutes of the meeting. A speech will be recorded as follows:

- Where a speaker does not submit a copy of their speech to the Council before the start of the meeting: “The Committee was addressed by XXX, who spoke in support/against the application”.
- Where the speaker submits a copy of their speech prior to the start of the meeting: “The Committee was addressed by XXX, who reiterated the issues set out in the summary text of their speech submitted prior to the meeting, which had been published on the Council’s website”.

If a speaker does not attend the meeting, any written text summarising the intended speech submitted by, or behalf of the speaker will not be considered by the Committee or referred to in the minutes, unless it is received prior to the closing of receipt of late representations.

SO IT'S AGREED: WHENEVER WE
ARE ABOUT TO USE THE WORD
'SUSTAINABLE', WE'LL TAKE A
DEEP BREATH, COUNT TO TEN,
AND FIND A WORD, OR SEVERAL,
THAT ACTUALLY CONVEYS
WHAT WE ARE TRYING TO SAY.



What should be included in a speech

It is important to remember that the Planning Committee can only consider certain issues when deciding a planning application. To help you make the most of the time you have been allocated to speak, we have provided examples in the Protocol of what can and cannot be considered (this is not an exhaustive list).

MATERIAL PLANNING CONSIDERATIONS	NON-MATERIAL CONSIDERATIONS
Design and visual impact	The applicant or agent
Privacy / daylight / sunlight	Land ownership
Noise, smell, pollution	Private rights e.g. access/covenants
Access / traffic	Property value
Health / health and safety	Loss of view
Ecology, landscape	“moral” issues (e.g. gambling)
Planning history / related decisions	Numbers of representations

Top tips

- We strongly recommend that you prepare your speech in advance so that you are able to make all your points in the time available.
- Speakers should avoid defamatory comments in their speech or speech text. If a speaker says or writes something defamatory in public, they may be at risk of legal action.
- A Parish/Town Councillor or their nominated representative shall put forward views or representations which reflect the views of the Parish Council which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Parish Council which they represent.



Time limits

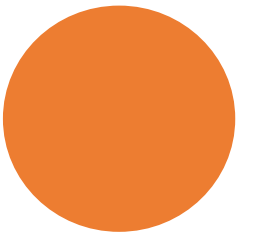
- The time limits will be strictly followed and cannot be exceeded. All speakers must stop when requested to do so by the Chairman.
- There will be a maximum speaking time of three minutes allocated for each speaker.
- A ward Member will not be permitted to speak for longer than 3 minutes. Ward Members are encouraged to contact the Planning Officer prior to the Committee meeting to clarify any factual issues with the planning application and raise any queries relating to the content of the report to Committee.

Right to appoint a representative

A speaker may appoint another person to speak in their place if they notify the Democratic Services Team of the change at least 24 hours before the meeting is due to start. The other party appointed must have made a representation prior to the agenda being published or be either the applicant or the agent on the application.

A Ward Member may appoint another Ward Member to speak in their place provided that:

- (a) the Member is not attending as a Committee Member;
- (b) they notify the Democratic Services Team of the change at least 24 hours before the meeting is due to start.

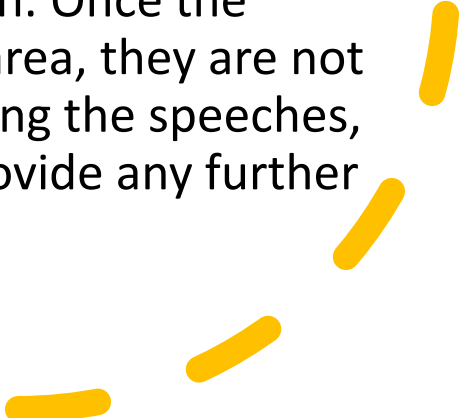




Failure to attend/deferral

- If a registered speaker or their representative does not arrive at the meeting before the Committee begins, the Committee will continue to consider and determine the application in their absence.
- If an application is deferred to be considered at a later meeting, any person wishing to speak will need to apply again.

Procedure for Speakers at the Meeting

- Committee meetings will start at the time and be held at the venue advertised on the Council's website.
 - All speakers are recommended to arrive 10 minutes before the start of the meeting. A Member of the Democratic Services Team will be there to greet speakers and explain the procedure, including how to use the microphone.
 - No written material, photographs or diagrams or other papers may be distributed by speakers at the meeting itself.
 - Speakers cannot give slide or video presentations at the meeting.
 - All speakers will be requested to return to the public seating area after they have made their representation. Once the speakers have returned to the public seating area, they are not permitted to enter the debate further. Following the speeches, the Chairman will invite the case Officer to provide any further comments.
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Late items

- All representations received up to midday 2 days before the Planning Committee meeting will be reported to Planning Committee by means of a late paper summarising any late representations received in respect of items on the agenda for the Committee. Representations received after this time will be considered by Officers as to whether they raise any new material planning considerations not considered as part of the agenda report. Should any representation raise new material planning considerations, the Business Manager – Planning Development or other Authorised Signatory will consider whether the item (development proposal) should be withdrawn from the agenda to enable the matter(s) to be properly considered and addressed in a future report.
- New documents should not be circulated to the Committee. Members may not be able to give proper consideration to the new information and Officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

Conclusions

- The amendments to the Scheme of Delegation to Officers come into effect on the 8th April 2024.
- Public Speaking from May 2024 Planning Committee
- A review of public speaking is to be undertaken within 6-months of operation.