

# OVERVIEW & SCRUTINY COMMITTEE

CHAIRMAN: Cllr Mike Haines

EXECUTIVE PORTFOLIO-HOLDER: Cllr Clemens

**DATE:** 10 September 2018

**REPORT OF:** Cllr Clemens (Portfolio-holder for Planning and Housing), Democratic Services Officer, and Service Manager Development Management

**SUBJECT:** Call-In of Portfolio Holder Decision 12-2018  
Planning Site Inspection Procedure

## PART I

### RECOMMENDATION

The Committee is recommended to consider the call-in.

#### 1. PURPOSE

Portfolio Holder decision 12-2018 has been called in by Councillor Dewhirst and supported by Councillors Connett, Cook, Cox, Evans, Keeling, Nutley, Parker and Rollason. The report of the PH Decision is appended for ease of reference. The decision seeks to amend the current planning site inspection procedure.

#### 2. BACKGROUND

##### 2.1 Councillor Dewhirst's reason for call in is:

*"Site Visits are usually to gain additional onsite local information about the application. Parish and Town Councillors are by definition the most local level of democracy and therefore have the most in-depth knowledge of the application site. Often issues can be raised that only the most local councillor will be aware and so in my view it is vital that Parish Councillors be present. If there are issues with Parish Councils then training should be made available to ensure probity."*

##### 2.2 Points of clarity to note are:

- The Local Government Association and Planning Advisory Service's publication – *Probity in Planning for Councillors and Officers* at page 15 advises that:

*"National Standards and local codes also apply to site visits. Councils should have a clear and consistent approach on when and why to hold a*

*site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device.*

*Visits should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies and material considerations already.*

*Site visits are for observing the site and gaining a better understanding of the issues. Visits made by Committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.*

*Once a Councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a Councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a Councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the Councillor is no longer impartial.”*

- Objectors and supporters/applicants complain that site inspections are imbalanced with regards to support or objection at the site inspection depending on the view of the Parish or Town Council, and that site visits are a covert lobbying device.
- Parish and Town Council representatives at site inspections can only repeat the views already expressed by their Council. Anyone who has a different view of the application, either the applicant, another individual or another interested group may feel that they are denied the same opportunity to influence the members of the planning committee. There is therefore a reasonable perception that the process is unfair and undemocratic. Most applications that are referred to a site inspection are those that are finely balanced and/or contentious so there can be strong views either way. Obviously those who have a different view to the Town or Parish Council will feel unrepresented. This could lead to a legal challenge to any resultant planning decision which could result in substantial costs to the Council and harm to its reputation.
- Town and Parish Councils would have inspected sites prior to submitting their formal views to Teignbridge Council.
- There are several organisations that provide support and training to Town and Parish Clerks and Councillors such as South West Councils, Devon Association of Local Councils and Teignbridge Association of Local Councils.
- The views of Parish and Town Councils have been canvassed by some of the call in Members, following the circulation of the portfolio decision to Councillors. These comments are appended.

- Town and Parish Councils are a statutory consultee and their views will always be sought on all planning applications. They have full access to planning applications in their areas to debate in the public realm and forward their decisions to the District Council. These comments are shown on the Council's web site and reported in full in Planning Committee agendas. Officers will give due consideration to Town and Parish Council comments when making recommendations on applications. Town and Parish Councils can also register to speak at Teignbridge Planning Committee meetings. The proposed change is not to deny Town and Parish Councils having their views conveyed in full but it is to make the process more fair to and more resilient to any legal challenges. Teignbridge District Council recognises the importance of the input from Town and Parish Councils on planning issues and looks forward to their continued engagement in the future.
- The location of site inspections from May 2017 to Aug 2018 is as follows:

<b>Ward</b>	<b>No of site visits</b>
Bovey Tracey	2
Chudleigh	1
Dawlish	4
Exminster	2
Exminster/ Shillingford St George	1
Ipplepen	1
Kingskerswell	1
Newton Abbot	2
Shaldon	2
Starcross	2

Trish Corns,  
Democratic Services Officer

Cllr Clemens  
Portfolio-Holder for Planning and  
Housing

Nick Davies, Service Manager  
Development Management

<b>Wards affected</b>	All
<b>Contact for any more information</b>	/Nick Davies 01626 215745 Trish Corns 01626 215112
<b>Background Papers (For Part I reports only)</b>	Local Governments Association and Planning Advisory Service's publication – <i>Probity in Planning for Councillors and Officers</i> PH 12-2108
<b>Key Decision</b>	N
<b>In Forward Plan</b>	N
<b>In O&amp;S Work Programme</b>	N
<b>Appendices attached:</b>	1: PH 112 - 2018 Report 2: Comments from Town and Parish Councils

## APPENDIX 1

### PORTFOLIO HOLDER DECISION No. 12-2018

LEADER: Cllr Jeremy Christophers

PORTFOLIO HOLDER: Cllr Humphrey Clemens

#### PART A (COMPLETED BY ORIGINATING OFFICER)

**SUBJECT:** Planning Site Inspections – Attendance of Parish & Town Council Representatives

**DATE:** 29 May, 2018

**REQUEST OF:** Democratic Services Manager

**REQUEST TO:** Cllr Clemens (Portfolio Holder for Housing and Planning)

#### PART I

##### PROGRESS BOX

Stage number	Stage description	Progress - requesting officer to mark with <b>completed</b> or <b>current</b> if “live” stage	Date
1	First draft	Completed	29 May 18
2	BL/BM consultation	Completed	31 May 18
3	Discussion with PH/Chair of Planning	Completed	June 2018
4	Group Leaders/ Chair O&S comments	Completed	17 July 2018
5	MO/151 consulted	Completed	29 May 18
6	Check – any objections from stages 4 & 5		
7	PH approved for consultation?	Completed	June 2018
		Democratic Services to complete subsequent stages	
8	All Councillors consulted	In progress	18 July 2018
9	Call in completed	Noon 25 July 2018	
10	Originating Officer advised		

#### 1. PROPOSED DECISION

The consent of the Portfolio Holder for Housing and Planning is sought to approve a change in the current planning site inspection procedure to no

longer invite Town and Parish Council representatives to attend the inspections.

I do not consider this a key decision and suggest you consult the Group Leaders and the Chairman of Overview and Scrutiny.

## **2. BACKGROUND**

Town and Parish Council representatives have been invited to planning site inspections for a number of years as part of the Council's planning site inspection procedure, although there is no statutory duty to do so.

Town and Parish Councillors can only express the views already agreed by their Council, and reported in the Committee report of the Business Manager, so there is no provision for the representatives to add to the debate at site inspections.

Over the years, the presence of representatives of Town and Parish Councils at site inspections has resulted in the occasional formal and informal complaint from members of the public. The parish council representative should only report the parish council's views but there is a real risk of additional comment or discussion with the site inspection team members. However, the parish representatives are only meant to report the parish council's views, and any subsequent dialogue undermines the input of the public who attended the parish council meeting or know the formal views of the parish council

The latest formal complaint resulted in the Council reviewing its site inspection procedure, and concluding that an amendment should be made to the procedure that Parish and Town Council representatives are no longer invited to site inspections on the grounds of efficiency and effectiveness, and the Council's reputation in terms of transparency and accountability.

## **3. MAIN IMPLICATIONS**

### Legal

There is no legal requirement for Town and Parish Council representatives to be invited to planning site inspections.

Town and Parish Councils are a statutory consultee under the Town and Country Planning Act and are consulted on all planning applications within their wards. Their comments are included in the Committee reports of the Business Manager for applications referred to Committee for determination.

The Committee's public participation scheme enables the opportunity for members of the public to address the Committee to express objection to or support for an application. This also enables representatives of Town and Parish Councils to address the Committee in accordance with the scheme, at the time an application is being considered by the District Council.

When complaints from Members of the public are received, the Council's reputation in terms of transparency and accountability are brought into question.

It is considered that the current consultation and process of having Town and Parish Council's views reported and considered by the Planning Committee when considering planning applications is robust and acceptable, and meets the Council's statutory requirements in terms of consultation.

#### Financial

There would be an indirect administrative efficiency if Town and Parish Council representatives were no longer invited to site inspections.

In the past where the presence of Town and Parish Councillors at site inspection has resulted in complaints, both formal and informal, there has been a significant indirect cost to the Council of senior officer time in trying to resolve the issue.

#### Human Resources

N/A

#### Council Strategy

The Council's 'vision and values support appropriate involvement of all parties and to be equitable and avoid complaints by applicants and objectors of unfairness it is recommended that consultation with Town and Parish Councils on all planning applications within their wards, and reporting their views within the Committee report of the Business Manager is the correct process.

### **4. GROUPS / INDIVIDUALS CONSULTED**

Group Leaders and the Chairman of the Overview and Scrutiny Committee. Town and Parish Councils will be advised of the procedural change and the reasons for it.

### **5. TIME-SCALE**

It is recommended that the amendment to the procedure takes immediate effect.

### **6. JUSTIFICATION**

The justification is evidenced in the implications sections above.

**Trish Corns**  
**Democratic Services Officer**

<b>Wards affected</b>	All
<b>Contact for more information</b>	Trish Corns 01626 215112
<b>Background Papers (For Part I reports only)</b>	Council's constitution Article 8
<b>Key Decision</b>	No
<b>In Forward Plan</b>	No
<b>In O&amp;S Work Programme</b>	No

## **PART B (COMPLETED BY DEMOCRATIC SERVICES)**

**Decision No. 12-2018**

**Date of Implementation 23 July 2018 subject to call in**

## **PART C (COMPLETED BY PH)**

DECISION: I confirm the decision as set out in paragraph 1 above

REASONS FOR DECISION: I agree with the justification set out in paragraph 6 above.

I have no conflict of interest in making this decision having considered the provisions of the Teignbridge Code of Conduct.

Signed...*Humphrey Clemens*

Dated: ...18 July 2018.....

**Cllr Humphrey Clemens**  
**(Portfolio Holder for Housing and Planning)**

## Appendix 2

### Comments from Town and Parish Council

- “Kingsteignton Town Council believe that there is an advantage for Town and Parish Councillors to attend Site Visits as they are able to provide local knowledge.

The Town Council believe that Town and Parish Councillors should be trained in this process so that complaints are avoided in the future from members of the public. It is the duty of the Chairman of the meeting to ensure that it is conducted in a legal and proper way.”

- Planning Chairman, Chudleigh Town Council – “Whilst it is true that the Town Council has an opportunity to comment on all planning applications, it is often the case that we do not have all the information necessary to make an informed decision. If we wait for TDC’s planning committee to determine the application, providing it has not already been decided by officers’ delegated authority, only a few individuals would get a chance to make representations.

Having been at a site meeting for Station Hill, Chudleigh, the need for local representation was demonstrated by the fact that only yourself from the planning committee was present together with two Town councillors and three officers. This gave all of us a chance to examine the site and convey questions that have been raised by our constituents.

Planning committee meeting allows us to provide a snapshot of feeling at that time. As councillors we continue to receive information and questions from our constituents, who are the people we serve. I seems to me that this move damages our local democracy. It is also ironic that one of the reasons given for this move is to improve transparency. You must be aware that there are a growing number of people that feel that TDC is not transparent and is authoritarian in some of its decisions and behaviour.”

- Dawlish Town Council – “We understand that there is no legal obligation to invite Town & Parish Councillors to site visits. We also understand that the Government expects to build a vast number of homes each year and the fulfilment of this is passed down to County and then District Councils. As Town Councillors we are representing and answerable to our electorate. We face (often in person) numerous questions and concerns from local residents regarding planning applications and are used to managing their expectations and helping them understand the process of planning. It was explained that the majority of applications cause no problems but surely with the few that are controversial Town and Parish Councils should have input. Whilst the minutes of each meeting are forwarded to District, we for one Council have not always put in the character of the application. We were under the impression that at Site Visits we could explain and show more about this character than we could possibly put in writing. We were surprised that when asked for any comments we could only re-iterate what



had been put in writing in the minutes. As town councillors we are also able to offer useful and appropriate knowledge to our colleagues at the District Council level and so contribute to the democratic process.

We understand that the Planning Committee comprises District Councillors from the whole area and that these are split into teams, which is quite understandable. However the district is a large area and we feel that some of these councillors will not know the whole area so that surely it is important for a local input to be heard so as to give a better insight to these “controversial” applications. It then gives the District Councillors a better idea when further studying their plans to come to a satisfactory decision.

By attending site visits, especially those for large/new estates etc we are able to learn and understand our resident’s concerns and therefore allows the resident’s concerns to be heard. This enables us to allay their fears and offset questions. Being excluded from these informative site visits would be a loss felt by the town and parish councillors themselves, the local planning committee as a whole, and would perhaps mean that the electorate feel that their voice is being not heard.”

- Newton Abbot Town Council – “The Town Council totally appreciates that there is no legal duty to allow parish or town council representatives to attend these meetings. It was a curtesy which Teignbridge afforded parish and town council representative and it was welcomed as such. It also appreciates that when it does attend it is a watching brief only, with an opportunity perhaps to ask questions of clarification only. My understanding is that my Councillors respected this at all times. If a small number of representatives abused this curtesy then surely the approach should be to remind them and all representatives of their responsibilities and not withdraw the offer.”
- “Dunchideock Parish Council strongly objects to this proposal and wishes to be involved with as much of the planning process as necessary, ensuring the opinions of the community are heard. Also this council feels that it is essential that they are able to assist planning officers of local knowledge.”
- “Ilswington Parish Council strongly objects to this proposal and wishes to be involved with as much of the planning process as necessary, ensuring the opinions of the community are heard. Also this council feels that it is essential that they are able to assist planning officers of local knowledge.”
- Henstock Parish Council - “The Parish Council feels very strongly that Town and Parish Council representatives should continue to be invited to planning site inspections because they can add value by contributing from local knowledge. Whilst the Council accepts that the Parish Council representative must only report the Parish Council's views and Teignbridge District Council will have received written observations from the Parish Council, there is often much more in terms of discussion which has led to the decision and which is not always included in the written response/observations - these views of the Parish Council, conveyed in the context of a discussion/questions at a site visit, can make an important contribution to the overall planning process.

The answer is not to exclude but to train and Hennock Parish Council urges Teignbridge District Council to reconsider this decision and, instead, train Parish/Town councillors in this process so that complaints from members of the public are avoided in the future and the integrity of the planning system in terms of openness and transparency is retained.”

- “Starcross Parish Council is most concerned at the proposed policy of not inviting a Parish Council representative to attend site meetings without any consultation. It thinks that it is an important part of the planning process for the Council's views to be conveyed directly at a site meeting from representatives with local knowledge of the application site. This is particularly important where the application is of a contentious nature. In such circumstances, the Parish Council would normally send the Chair of its Planning Committee and/or a delegated Councillor who would, represent the views of the Council and parishioners on the application.”
- Kenton Parish Council – “Whilst there is no statutory duty for the District Council to invite Town and Parish representatives to site inspections, Kenton Parish Council believes that it is an important part of the planning process for the Parish Council's views to be conveyed directly to the site inspection team.

It seems that the decision has been prompted by procedures not being followed correctly. Kenton Parish Council would like to suggest that rather than making the decision to ban Towns and Parishes, thought is given to discussing the issues that have arisen and offering suitable training so that the procedures and correct protocol is fully understood by Towns and Parishes.”

- Exminster Parish Council – “we were not aware that public complaints were an issue and would like to see more evidence that other ways of rectifying the problem, such as better Councillor training, have been properly explored and tested before removing an important opportunity for Town/Parish councils to attend site visits. Often, a site visit allows local councillors to demonstrate and explain to Planning Committee members the views of residents (as expressed through the parish council's formal response) in a way that written representations cannot convey. While attendance is not a statutory right, it is disappointing that TDC seeks to remove this democratic opportunity without properly consulting and informing Town/Parish councils, or seeking other ways to address the problem.”
- Kenn Parish Council Clerk – “On behalf of the parish of Kenn, I object to this decision to ban parish councils from attending site visits. The people who live in and are responsible for, as councillors, their parish, are very well versed in local knowledge and issues, some of which can be more ably demonstrated at a site meeting than on paper as statutory consultees. An open and transparent district council would not take this retrograde step.”