

GOVERNANCE AND AUDIT SCRUTINY COMMITTEE AGENDA

Monday, 30th May 2022 at 4.00pm

This meeting is non-decision making and will be held via Zoom. An invitation will be sent to Members by a separate e-mail.

Members of the public will be able to view and listen to this meeting via YouTube.

To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

Members of the Governance and Audit Scrutiny Committee are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor P Euesden (Vice-Chairman)	Councillor T Walsh
Councillor D Hume	Councillor Mrs L Walters
Councillor D Mann	Councillor D White
Councillor S Rehman	Councillor J Wrench (Chairman)
Councillor Miss V Santomauro	

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS – DECLARATIONS OF MEMBERS' INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time – Registration and Speaking:

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the second working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Friday, (where there is a bank holiday Monday you will need to register by midday on the previous Thursday. Public Question Time speakers may participate in person or virtually. Speaker preference must be indicated upon registration.

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

The public may ask questions on any matter listed on the Agenda for this meeting. All questions or statements should be concise and should be able to be read within 3 minutes allotted for each question/statement.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Public Attendance at Meetings:

Public attendance is welcomed, but is subject to restrictions due to the Council's arrangements for keeping Causeway House Covid secure and visitors safe.

Public attendance is limited and will be on a first come first served basis with priority given to Public Registered Speakers. In order to maintain safe distances, the Council may have to refuse entry to members of the public. The public may not be able to sit in the Council Chamber, but will be able to observe the meeting from a public gallery through a large screen. Alternatively, the Council meetings are webcast and are available via the Council's YouTube Channel and can be viewed by the public as a live broadcast, or as a recording following the meeting.

Public speakers and public attendees are required to attend on their own, and where possible only one representative of any community group, family household or Company should attend. Members of the public intending to come to Causeway House to observe a meeting are recommended to watch the meeting via the webcast, or to contact the Governance and Members Team to reserve a seat within the public gallery.

Health and Safety/COVID:

Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed at Causeway House or given by Officers during the course of their attendance. All visitors will be required to wear a mask or face covering, unless an exemption applies.

Anyone attending meetings is asked to make themselves aware of the nearest available fire exit. In the event of an alarm you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point until it is safe to return to the building.

Documents: Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of MS Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy.

https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

Mobile Phones:

Please ensure that your mobile phone is switched to silent during the meeting in order to prevent disturbances.

Webcast and Audio Recording:

Please note that this meeting will be webcast and audio recorded. You can view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>. The meeting will also be broadcast via the Council's YouTube Channel.

Comments and Suggestions:

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to governance@braintree.gov.uk

1 Apologies for Absence**2 Declaration of Interests - Scrutiny Committee**

1. To declare the existence and nature of any interests relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice (where necessary) before the meeting.

2. To declare the existence and nature of any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Committee or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote on any particular matter.

3 Minutes of the Previous Meeting

The minutes of the meeting of the Governance and Audit Scrutiny Committee held on 21st April 2022 will be approved at the next meeting of the Committee on 21st July 2022.

4 Public Question Time
(See paragraph above)**5 Proposals for Planning Committee Members Forum****5 - 14****6 Urgent Business - Public Session**

To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Report Title: Proposals for Planning Committee Members Forum	
Report to: Governance and Audit Scrutiny Committee (GASC)	
Date: 30 th May 2022	For: Decision
Key Decision: No	Decision Planner Ref No: 2021/48
Report Presented by: Christopher Paggi, Planning Development Manager	
Enquiries to: Christopher Paggi, Planning Development Manager Christopher.paggi@braintree.gov.uk	

1. Purpose of the Report

- 1.1 Full Council approved a new Scheme of Delegation for Development Management decision-making on 7th December 2020. Part of the proposals included the introduction of a new 'Members Forum' where applicants and agents would have the ability during the pre-application, pre-submission, and application stage of the planning process, to present their proposals to Members of the Planning Committee. This report brings forward the Terms of Reference of the Member Forum for consideration.

2. Recommendations

- 2.1 To consider the proposals for a Planning Members Forum and make any suggestions for how the proposals could be improved to ensure they are fit for purpose.

3. Summary of Issues

- 3.1 Members are currently responsible for making decisions on applications, including major planning applications of a large or strategic scale, based on a report and recommendation from Officers published in advance of the Planning Committee meeting, and an Officer presentation on the night. In doing so they must also take into account any material considerations raised within representations and consultation responses received during the process.
- 3.2 Some of the applications determined by Members have been subject to lengthy discussion and negotiation between Officers and the applicants. For a large scale or strategic major application, this process could easily take over a year from the initial pre-application discussion to the application being referred to Planning Committee. However, Members, who will have the final say on the determination of the application, are not involved in any part of that process and do not have the ability to influence the proposals, except of course, for making a final decision on the application.
- 3.3 This lack of engagement currently generates significant risk for both Officers, applicants and agents who are investing significant time and resources in

working up proposals. Member involvement in the process earlier will mean that issues can be identified, including any significant principle concerns, so that the applicant can address these or make a decision as to whether to progress any further work on the proposal. The risk and more importantly the consequence of a Member overturn or deferral is significant, both in terms of delay but also in terms of the Officer resource and the abortive cost of this, and the potential additional costs to the Council arising from a subsequent appeal.

- 3.4 The Council remains under significant pressure in terms of housing land supply, and it is increasingly important that strategic sites which are supported are able to be advanced through the planning process to facilitate housing delivery in the District. This will ensure that the District grows in the right way and unsustainable development can be resisted. Developers are keen to understand the particular issues and concerns that Members have about proposed developments so that they can explore ways to address those concerns through their planning application. Developers who have been able to engage with Members on their proposals in advance of determination in other authorities have said they found this to be a useful way of understanding local issues and sentiment and helps produce better quality applications and developments. However, the current process does not include a formal mechanism to facilitate Member engagement as part of the pre-application and planning process.
- 3.5 At the Full Council meeting held on 7th December 2020, Members approved the principle of a 'Members Forum' to enable engagement with Members of the Council's Planning Committee. The terms of reference, governance arrangements, and frequency of meetings were to be subject to further consultation with the Monitoring Officer, Planning Committee, Developing Democracy Group, and the Corporate Governance Group, prior to a further report being referred to Full Council for approval.
- 3.6 Following approval of the new Scheme of Delegation, Officers have fulfilled the obligation to report 'legacy' planning applications under the agreed transitional arrangements to the Council's Planning Committee for determination, namely those applications which had been received on, or prior to, 31st December 2020 which had not been formally determined, but which would have been reported to the Planning Committee for determination in accordance with the criteria of the old Scheme of Delegation, i.e. where the Town or Parish Council view was contrary to the Officer recommendation.
- 3.7 Officers consider that the new Scheme of Delegation is working well and has reduced the overall number of applications going to Planning Committee and has ensured that the Planning Committee concentrate on those applications which have the greatest impact on the District. This reduction in volume of agenda items now means that proposals for a Members Forum can now be brought forward. The detailed proposals for the Members Forum, are set out below.

Proposal

- 3.8 It is proposed to introduce a Members Forum as part of the planning application process, to facilitate Member engagement in that process, prior to the determination of the application by the Planning Committee.
- 3.9 The objectives of the Member Forum are:
- To enhance Member engagement in the planning application process, in relation to those applications that will be reported to the Council's Planning Committee for determination;
 - To enable applicants and agents, and Officers to gain a better understanding of particular issues of concern, and how proposals could be improved further;
 - To enable Members to gain a greater understanding of how proposals evolve through the planning application process;
 - To increase and enhance the level of engagement with Town and Parish Council's at the pre-application stage of the process;
 - To enable Members to hold applicants to account for undertaking meaningful engagement with local residents, in accordance with the Council's Statement of Community Involvement (SCI), prior to the submission of an application.
- 3.10 The Members Forum would review applications at the pre-application stage, and/or pre-submission, and/or post-submission stage of the planning process. Major planning application proposals are subject to considerable discussion, negotiation and consultation both at the pre-application stage and at the formal planning application stage. In some cases the detailed proposals at the determination stage, bear little resemblance to those originally presented for discussion at the first pre-application meeting.
- 3.11 At the present time these early discussions are only with Officers and statutory consultees, with Members making the decision on the suitability of the proposal at Planning Committee, when changes are not generally able to be incorporated. Currently Members only involvement in the planning process is at the final stage and when the Council's Planning Committee is making its determination. While ultimately Members role is the most significant in the process, it is considered that the process would benefit from earlier engagement with Members. This would enable Members to gain an understanding of what the proposal has set out to achieve and enable Officers and applicants to gain a better understanding of particular issues of concern and how proposals could be improved before they are formally considered by the Planning Committee.
- 3.12 Consultation with planning agents, developers and Town and Parish Councils on the proposals for a Planning Members Forum was undertaken prior to the decision at Council in December 2020. Many developers told us within that consultation and in subsequent conversations that they are keen to understand the issues and concerns that Members have about proposed developments so that they can explore ways to address those concerns through their planning application. Developers who have been able to engage

with Members on their proposals in advance of determination in other authorities have said they found this to be a useful way of understanding local issues and sentiment and helps produce better quality applications and developments. Developers are keen to engage, and this is often illustrated by the information packs, fact sheets and brochures which are sometimes produced in advance of Planning Committee meetings. The introduction of a Members Forum would allow meaningful engagement to take place in a structured and transparent way. However, it is important to note that the Member Forum does not change the status or importance of the Planning Committee where the application will still need to be determined on its own merits at the time.

- 3.13 The Council currently offers a full pre-application service and for major application proposals there is the option for applicants to enter into a Planning Performance Agreement (PPA) to facilitate a programme of detailed discussions with Planning Officers and consultees. Increasingly PPAs are being used in recognition of the complexity and scale of development proposals being received by the Council. They have been used to great effect over the last few years to enable detailed negotiation and discussions to take place with Officers, particularly in relation to masterplanning and supporting the development of design codes for several key strategic development sites within the emerging Local Plan. Most notably this includes Straits Mill and Towerlands in Braintree, and Wood End Farm in Witham. These measures have been critical in achieving a step change in the quality of design and layout within new development proposals. It is therefore proposed that Members Forum meetings would be incorporated within the process for all PPA's and within some stand-alone pre-applications. This ensures that developers are unable to cherry pick whether they engage with Officers or Members, they will have to engage with both. The cost of the Members Forum is designed to be cost neutral to the authority, being paid by the applicant as part of the pre-application or PPA fee.
- 3.14 The applicant team would present their proposals to the Members Forum and the Members would then have the ability to ask questions and clarifications on the detailed proposals. The Members Forum would not hold any decision-making authority, and therefore would not be able to make a decision on any matter before them. The Member Forum would not be able to express a view on the acceptability of proposals.
- 3.15 In addition to Members of the Council's Planning Committee, it is proposed that invitations would be issued to District Ward Members and up to two representatives from the relevant Town or Parish Council to attend the Members Forum meetings. This ensures that all elected representatives of the local community for District matters are represented and have an opportunity to participate in the planning process. If a proposal is on the boundary or straddling the boundary between Parishes/Wards then representatives of both Wards and Parishes may be invited.
- 3.16 Members of the public, resident group or societies have a different but no less important role in the planning process. Officers would continue to encourage

developers to engage with Town and Parish Councils and local residents outside of the Members Forum process, as set out within the Council's Statement of Community Involvement (SCI). While some Developers undertake consultation with the local community, the quality of this consultation varies considerably both in terms of scope and quality. One of the objectives and aspirations of the introduction of the Members Forum is to introduce a mechanism early on within the planning process, to enable Members and local representatives to hold Developers to account and to critique the way in which they have sought to engage and with the local community and how they have responded to feedback received.

Transparency

- 3.17 Transparency is a key component of these proposals. As set out above, the Members Forum would not be a decision-making body. As such, the Members Forum would not constitute a new Committee of the Council. However, it will have a set of clear terms of reference, which would be published on the Council's website. A draft terms of reference is included at Appendix A. As it would not be a decision-making body, there is no requirement to hold meetings in person. This provides the flexibility to hold meetings both virtually and in person.
- 3.18 The meetings will be recorded which will allow Officers to refer to them at a later date if required. The dates of the meetings will also be available on the Councils Website, in the Planning section. Where a matter has been before a Member Forum, this will be noted within the Planning Committee reports published at the time the matter is brought forward for determination.

Application Thresholds for Referral

- 3.19 Applications suitable for referral to the Members Forum would primarily comprise those defined within Part A of the Scheme of Delegation, most notably applications for major development proposals (10 or more proposed houses or commercial development, including changes of use, comprising additional floorspace of 1,000sq.m). Nationally Significant Infrastructure Projects (NSIPs) and Council-led proposals may also be referred to the Members Forum. There may also be occasions where application proposals which do not meet the above thresholds, but warrant referral to the Members Forum, which are deemed to be 'significant'. In respect of these applications, the Planning Development Manager in consultation with the Chair and Vice Chair of the Planning Committee will make the decision as to which applications are considered at the Members Forum.

Format of the Meetings

- 3.20 In advance of the meeting:

- Officers would prepare a briefing note for all Members and the Town/Parish Council that are due to attend the Members Forum, to summarise the proposal, planning policy background, and the key material planning issues arising from the proposal. The briefing note would be written in a neutral manner, setting out factual information, and would not set out the Officer view on the proposals;
- The applicant would prepare a pack of information which would be circulated in advance of the meeting to all Members and the Town/Parish Council that are due to attend the Members Forum.

3.21 At the meeting:

- Smaller developments would be scheduled for approximately 45 minutes, with larger items likely to take up to 1 hour 30 minutes;
- The applicant or their representatives would present their proposals to the Members Forum. Applicants would have approximately 15/30 minutes to give their presentation;
- The membership of the Forum would have up to 30/60 minutes to ask questions and seek clarification on the proposals.

Membership

3.22 The membership of the Members Forum would comprise:

- All Members of the Planning Committee (13); and
- All Substitute Members of the Planning Committee (5)

3.23 Additional Invitations for Specific Meetings:

- Braintree District Ward Member(s) (of the ward in which the development takes place and of the neighbouring ward if relevant);
- Up to two representatives from the relevant Town or Parish Council(s) (if applicable).

Training

3.24 While all Members of the Council's Planning Committee have received detailed training, all Members will need to undergo additional training in order to ensure that they are fully aware of the parameters within which this engagement can be undertaken. This will avoid any challenge to the Council's decision-making process. This would need to be undertaken and completed prior to the attendance at a Members Forum meeting. Guidance would also be issued to representatives of the Town and Parish Council before attendance at a Members Forum meeting.

Frequency of Meetings

3.25 Currently the Council schedule 26 Planning Committee meetings each year (one every two weeks). Additional meetings are also scheduled for

larger/controversial items (as a single item agenda Committee) or when a large number of applications need to be determined.

- 3.26 In order to accommodate meetings of the Members Forum, and given the changes to the Scheme of Delegation, as part of these proposals it is proposed to reduce the frequency of Planning Committee meetings to every three weeks. Members Forum meetings are also proposed to take place every three weeks, during the evening, as per Planning Committee meetings. 17 scheduled meetings of Planning Committee would therefore take place each year, along with up to 17 meetings of the Members Forum. However, the number of Members Forum meetings would depend on the number of sites being considered and may meet less often.
- 3.27 The meetings of the Members Forum would allow for between 1 and 3 proposals to be presented (depending on the scale of the scheme).

4. Options

- 4.1 The preferred option for the Planning Members Forum is set out within this report. This provides the right balance of transparency and engagement, without providing an unnecessary administrative burden to either applicants or the Local Planning Authority.
- 4.2 Members could make changes to the format or composition of the Planning Members Forum. The pros and cons of changes would need to be carefully considered.
- 4.3 The third option is to do nothing and retain the current position, i.e. developers engage with Town/Parish Councils and residents in the usual way and Members of Planning Committee do not engage with the proposals until the Planning Committee at which it is decided. It is not considered that this will deliver the excellence in planning and enhanced member involvement in the planning system that is required.

5. Next Steps

- 5.1 The proposals for the Planning Committee Members Forum are being considered by the following Member groups/committees:

Governance and Audit Scrutiny Committee – 30th May
Planning Committee – 31st May

The proposals for the Planning Committee Member's Forum were considered by the Developing Democracy Group (DDG) on 27th May 2022 and a verbal update will be provided to Members at this meeting.

- 5.2 The proposals, as revised by member feedback, will be subject to a consultation period with Town and Parish Councils in June. An e-mail will be sent directly to all clerks with information on the proposals and members of

the planning team will be available to answer any questions that they might have.

- 5.3 All comments received within that consultation will be included within the final report for Full Council to consider in July.

6. Financial Implications

- 6.1 The Members Forum is intended to be cost neutral to the Council, with the costs associated with the Forum being paid directly by the applicant. Alongside these proposals, a review of the Council's Planning Pre-Applications fees and charges is being undertaken, and it is proposed to imbed the cost of a 'Members Forum' within the relevant categories for pre-application engagement, or within Planning Performance Agreements (PPAs). This is to ensure that applicants' are not able to cherry-pick whether they engage with Officers or Members. As part of these wider proposals if an applicant wishes to receive pre-application advice from the Local Planning Authority, they would need to engage with both Officers and Members through the Members Forum.
- 6.2 Officers are in the process of reviewing the fees and charges for pre-applications. As part of this, it is proposed that the cost of the Members Forum would be included within the revised set of fees and charges. In accordance with the decision of the Full Council meeting held on 21st February 2022, the revised pre-application fees will be subject to approval by the Cabinet Member for Planning and Infrastructure (see paragraph number 7 of the Minutes on Page 87).

7. Legal Implications

- 7.1 The Member Forum will not be a decision-making body of the Council. It will not be able to take any decisions or give an option that could tie the hands of the Council or its Committees. All decision making relating to the planning process will continue to be taken in accordance with the Scheme of Delegation and the Planning Committees Terms of Reference.
- 7.2 A new guidance note will be issued to Members to enable them to understand the parameters of their involvement within the Member Forum. This will cover topics such as pre-determination and bias within the planning process.
- 7.3 The Member Forum is not a committee of the Council and there whilst Members will be able to claim their expenses in attending the meetings, it is not a meeting for which the Members Allowance Scheme applies.

8. Other Implications

- 8.1 There are no other implications arising out of the proposals set out in this report.

9. Equality and Diversity Implications

- 9.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 9.3 The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

10. Appendices

- 10.1 Appendix A - Draft Terms of Reference for the Planning Members Forum.

11. Background Papers

- 11.1 Full Council agenda and minutes 7th December 2020.
- 11.2 Full Council agenda and minutes 21st February 2022.

DRAFT Terms of Reference of the Planning Committee Members Forum

Purpose of the Members Forum

To enhance Member engagement in the planning application process, in relation to those applications (primarily major planning applications) that will be reported to the Council's Planning Committee for determination.

Composition of the Members Forum

The membership of the Members Forum would comprise all Members and Substitute Members of the Planning Committee.

In addition, invitations to specific meetings would be issued to BDC Ward Member(s), and up to two representatives from the relevant Town or Parish Council (if applicable).

The Chairman and Vice Chairman of the Planning Committee would take the same responsibilities in the Members Forum.

Functions of the Members Forum

The Members Forum shall perform the following functions:

- To act as a consultative forum, reviewing application proposals at the pre-application stage, and/or pre-submission, and/or post-submission stage of the planning process;
- To ask questions and seek clarifications on development proposals.

For the avoidance of doubt, the Members Forum is not a formal decision making body, nor a formally constituted Committee of the Council.

Applications considered by the Members Forum

The Members Forum is a voluntary process and applicants cannot be compelled to attend and present at the forum.

Applications which fall within Part A of the Councils approved scheme of Delegation (primarily major planning applications) are to be considered by the Members Forum.

The Planning Development Manager in consultation with the Chair of the Members Forum can invite other applicants to attend which do not fall under Part A, where these are considered to be significant. This could include circumstances where Braintree is not the determining planning authority, for example National Significant Infrastructure Proposals or for Out of District Consultations and applications being considered by Essex County Council.