

**North East Derbyshire District Council**

**Standards Committee**

**13th November 2024**

**Planning Committee Constitutional requirements**

**Report of the Assistant Director of Governance and Monitoring Officer**

Classification: This report is public

Report By: **Sarah Sternberg, Assistant Director of Governance and Monitoring Officer.**

Contact Officer: **Sarah Sternberg, Assistant Director of Governance and Monitoring Officer.**

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**PURPOSE / SUMMARY**

An issue has been raised by the Liberal Democrat Member of the Planning Committee in relation to a requirement added to the Constitution in May 2024 in relation to Planning Committee. This report is for you to consider that request.

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**RECOMMENDATIONS**

1. That Members consider the request.

**IMPLICATIONS**

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**Finance and Risk:** Yes  No

**Details:**

On Behalf of the Section 151 Officer

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**Legal (including Data Protection):** Yes  No

**Details:** As in the report.

On Behalf of the Solicitor to the Council

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Staffing: Yes  No

Details:

On behalf of the Head of Paid Service

## DECISION INFORMATION

Decision Information	
<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <b>NEDDC:</b> <b>Revenue - £125,000 <input type="checkbox"/> Capital - £310,000 <input type="checkbox"/></b> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Significantly Affected</b>	None directly
<b>Equality Impact Assessment (EIA) details:</b>	
<b>Stage 1 screening undertaken</b> <ul style="list-style-type: none"><li>Completed EIA stage 1 to be appended if not required to do a stage 2</li></ul>	None carried out at this stage.
<b>Stage 2 full assessment undertaken</b> <ul style="list-style-type: none"><li>Completed EIA stage 2 needs to be appended to the report</li></ul>	No, not applicable
<b>Consultation:</b> <b>Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/></b> <b>SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/></b> <b>Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></b>	No  Details:

**Links to Council Plan priorities;**

- **A great place that cares for the environment**
- **A great place to live well**
- **A great place to work**
- **A great place to access good public services**

All indirectly

## REPORT DETAILS

### 1 **Background** *(reasons for bringing the report)*

- 1.1 At the Annual Council Meeting in May 2024, Standards Committee recommended that Planning Committee Members, in whose ward an application was situated, should not be allowed to participate in the Planning Committee decision on the application. This was placed in the Planning Rules, part 8, the relevant part of which states:

Ward Members are able to call in Application and, if they wish, to then make representations on it as a Ward Members. In these circumstances they would not expect to participate in the Planning Committee's determination on this Application. However, it would be inappropriate for a Local Member who has either called in an application or who represents the Ward in which it was located to speak on the Application at Planning Committee and then go on to take part in the Committee's consideration on it. For this reason, Members of the Committee will be required to Declare an Interest on any applications within their Ward that are considered by Planning Committee and to leave the meeting when it is considered and not participate in the Committee's determination on this.

- 1.2 The reasoning behind this was explained in the Standards Committee minute (Number STA/ 45/2 3-24) of the meeting on the 26<sup>th</sup> April 2024 as:

Committee suggested a change to Planning rules that would exclude Members from determination of a Planning application for areas where they are the Ward Member for the application site. The proposed changes would also introduce a requirement for all Planning Committee Members to confirm that they have no predetermination or bias at the start of every Committee meeting. Members considered that these changes would help to mitigate both real and perceived risks of conflict within the Committee and demonstrate good practice to the public.

RESOLVED – That Standards Committee approved the proposed changes to the Constitution and recommended that it be brought to the next meeting of Council for approval.

- 1.3 This was approved at the Annual Meeting of Council in May 2024 and now forms a part of the Constitution.

- 1.3 I have received a request from Cllr Hancock on behalf of the Liberal Democrats as follows:

“Following the recent change to the constitution, in regard to members not being permitted to consider and vote on planning matters relating to their own ward.

I hereby formally submit a request on behalf of the Liberal Democrat group, for dispensation, in accordance with Section 33 of the Localism Act 2011; on the basis that, currently, all members of our group represent the same ward and the constitutional change, adopted by Council, therefore upsets the political balance of the committee by excluding our group’s views on any applications relating to Tupton ward.

The dispensation is requested for the remainder of this term or, until (a) an additional Lib Dem member, representing another ward, becomes part of our group or (b) the restriction is removed from the constitution (whichever is sooner).

The dispensation is not intended to bypass the previous rule, whereby a member of the planning committee may either opt to speak for or against an application in their ward and, in doing so, waive their right to consider and vote on an application.”

- 1.4 Although a dispensation under 33 has been requested, this would apply to a disclosable pecuniary interest (a DPI). This is not about the declaration of a disclosable pecuniary interest. It is rather a request for a waiver of a constitutional rule. However Section 33 does apply to the declaration of DPIs and allow the Authority to grant a dispensation in circumstances where the Authority:

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

- 1.5 Members are reminded that this is not however a request for a dispensation and that the reason for the change to the Members Planning Rules was in fact to deal with actual or perceived conflicts of interest. In addition, Planning Committee is not a political decision making body. Decisions made should be made based on the planning merits of the application, Planning law, the NPPF and the Local Plan.

## 2. **Details of Proposal or Information**

- 2.1 Members consider what response they wish to give in relation to the application.

2.2 If Members are minded to accommodate the request, the matter will have to be referred to Council as there are no powers for the Standards Committee to make such a decision.

### **3 Reasons for Recommendation**

3.1 The reason for the recommendation is to allow the Standards Committee to make a decision on the circumstances raised.

### **4 Alternative Options and Reasons for Rejection**

4.1 It would not be appropriate for this application not to be considered.

## **DOCUMENT INFORMATION**

<b>Appendix No</b>	<b>Title</b>
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet you must provide copies of the background papers)	
None	