

**ARUN DISTRICT COUNCIL  
REPORT TO PLANNING POLICY COMMITTEE  
ON 1 JUNE 2021**

**SUBJECT:** Terms of Reference for the Planning Policy Committee; Matters Reserved; and Delegation to Officers

**REPORT AUTHOR:** Solomon Agutu – Interim Monitoring Officer

**DATE:** 27 May 2021

**EXTN:** 37432

**COMMITTEE:** Planning Policy Committee

**EXECUTIVE SUMMARY:**

This report asks the Planning Policy Committee to note its Terms of Reference as given by Full Council and to make any suggestions to the Constitution Working Party (CWP) for clarifying these Terms of Reference and to make, by exception, delegations to Officers under matters reserved.

**RECOMMENDATIONS:**

The Committee is requested to:

1. Note the general Terms of Reference for committees in Part 3 Paragraph 3 of the Constitution and further note the specific Terms of Reference for the Planning Policy Committee, as established by Full Council on 19 May 2021, as set out in Part 1 and Part 2 of Appendix 1 (attached);
2. Make suggestions to Full Council through the Constitution Working Party(CWP) for clarifications of these Terms of Reference;
3. Note the schedule of Planning Policy Committee meetings, as set out in the Calendar of Meetings, supplied as an e-link background paper; and
4. Agree the matters reserved scheme whereby matters not reserved by Committee to itself are delegated to Officers by default as set out in Appendix 2 (attached).

**Background**

1.This is the first meeting of the Committee under the new Committee System and it is appropriate that this Committee considers its terms of reference and where necessary seek clarification of these terms of reference from Full Council by way of a co-ordinated report from the Constitution Working Party(CWP) which is charged with reviewing the constitution and coordinating suggestions for change from other Committees.

2. Section 101 of the Local Government Act 1972, allows Full Council to arrange for the discharge of its functions by a Committee or by an officer. Part 3 of the Constitution sets out the responsibility for functions and Paragraph 3 of Part 3 of the Constitution sets out the general terms of reference of all Committees. These provisions allow this Committee to reserve matters to itself and to delegate the remaining functions to officers (Part 3 Paragraph 3.1.5) - see Appendix 1.

3. Arranging for the discharge of specific functions by Officers is by a process known as "delegation by exception" or "matters reserved".

4. This means Committee can reserve matters to itself that can only be discharged by the Committee. Matters not reserved are then delegated *by default* to Officers.

5. In accordance with Part 4 and Section 2 of the Constitution, the matters not reserved are *by default* delegated to the Chief Executive, Directors and Group Heads who have the power to take all lawful action consistent with overall Council policy to deliver agreed strategy, plans and policy, and to comply with and undertake all statutory obligations, duties, functions and powers within their area of responsibility and within approved budget.

6. In accordance with Part 4 and section 2 of the Constitution the Chief Executive or Director having received their delegations expressly or by default can then prepare a scheme of "authorisations" or "allocations" authorising identified officers to discharge various functions and to take decisions. Unless authorised by law a delegate cannot delegate further their own functions ("*delegatus non potest delegare*") and thus the discharge of functions below Chief Executive and Director level is generally by a "scheme authorisations" not a "scheme of delegation". If there were to be a further "delegation" they are to be recorded in writing and retained for the duration of the delegation and shall not exceed a specified period exceeding six months.

## **2. PROPOSAL(S):**

The proposal is that Committee reserves to itself the "matters reserved" at Appendix 2 and delegates all other functions to Officers as set out in Appendix 1 Part 2

## **3. OPTIONS:**

1. Do nothing
2. Agree the proposals as recommended
3. Agree the proposals as recommended but with suggested amendments for clarifications to be made to CWP for consideration and recommendation to Full Council

## **4. CONSULTATION:**

N/A

Has consultation been undertaken with?	YES	NO
Relevant Town/Parish Council		
Relevant District Ward Councillors		
Other groups/persons (please specify)		

<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial		
Legal		
Human Rights/Equality Impact Assessment		
Community Safety including Section 17 of Crime & Disorder Act		
Sustainability		
Asset Management/Property/Land		
Technology		
Equality and Diversity		
Climate Change		
Other (please explain)		
<b>6. IMPLICATIONS:</b>  <p>Legal: the legal implications are set out in the background paragraph above</p> <p>Finance: the financial implications of delegations are set out in the contract standing Orders and in the Financial Regulations</p>		
<b>7. REASON FOR THE DECISION:</b>  <p>The reason for the decision is to allow the business of the Council to be conducted effectively and efficiently in accordance with the principle of subsidiarity which mandates that decisions are to be taken at the most appropriate level.</p>		
<b>8. BACKGROUND PAPERS:</b>  <a href="#">Committee Calendar 2021-22</a>		

## **APPENDIX 1**

### **Planning Policy Committee terms of Reference from 2021/2022**

#### **PART 1 - GENERAL TERMS OF REFERENCE**

Extract from Part 3 Paragraph 3 of the Constitution

#### **3.0 TERMS OF REFERENCE OF COMMITTEES**

3.1 Committees will work to the following general terms of reference in discharging the specific functions allocated to them:

3.1.1 Each Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do other things that they reasonably consider necessary to inform their deliberations.

3.1.2 Each Committee is expected to determine by resolution all matters falling within their purpose and functions with the exception of:

- a) any plans and strategies listed in the Policy Framework at Article 4 of this Constitution;
- b) compulsory purchase orders;
- c) limitations set out in the Financial Procedure Rules and Purchasing, Procurement, Contracts & Disposals Rules as set out in Part 6 of this Constitution; and
- d) any matter which by law must be reserved to the Full Council

which will be recommended to the Full Council or Corporate Policy and Performance Committee, as appropriate.

3.1.3 Where a function does not clearly fall within the remit of one particular Service Committee, the Corporate Policy and Performance Committee shall direct which Committee shall deal with the function, or deal with the matter itself.

3.1.4 Each Committee is authorised to establish Sub-Committees and Working Parties as it considers necessary for the effective conduct of the Committee's powers and duties. The establishment of any Sub-Committees and Working Parties shall have regard to the overall resource parameters and advice of the Chief Executive and officers.

3.1.5 Each Committee is authorised to delegate to officers such further powers as it thinks fit to facilitate the effective management of the Council's and the Committee's business.

3.1.6 In discharging its functions, Committees must have regard to the ongoing requirement to make savings and efficiencies.

## **APPENDIX 1**

### **PART 2 - SPECIFIC TERMS OF REFERENCE OF PLANNING POLICY COMMITTEE - 2021/2022**

#### **Purpose**

The Committee has delegated authority to exercise the Council's functions relating to the delivery, by or on behalf of the Council directly or through any Sub-Committees it establishes, and through partnership arrangements, that fall within the following service areas:

- Planning Policy
- Infrastructure

The Committee will lead on the following key plans and strategies:

- Local Plan
- Community Infrastructure Levy (CIL)

#### **Specific Functions**

The Committee shall exercise the powers of the Council under Part 2 of the Planning and Compulsory Purchase Act 2004 and Part 11 of the Planning Act 2008 (Community Infrastructure Levy) including the following specific functions by or on behalf of the Council:

1. Approving any service area policies where these do not require a Full Council decision under the Policy Framework at Article 4 of this Constitution.
2. Making recommendations on Planning Policy, Community Infrastructure Levy (CIL) documents and Infrastructure Funding Statements to the Full Council for approval.
3. Authorising public consultation on draft Planning Policy and CIL documents and material produced for public consultation reports.
4. Considering responses from public consultation and amending reports accordingly.
5. Approving any expenditure within agreed budgets for public consultation
6. Approving consultation on certain stages of plans/proposals/the CIL Charging Schedule.
7. Agreeing Supplementary Planning Documents and background evidence base documents.
8. Approving consultation responses.
9. Monitoring progress against agreed action plans and agreeing any necessary actions.
10. Making recommendations to the Full Council for approval of the implementation and governance of the CIL charging schedule.
11. Approving the repayment of money paid to the Council under Planning Obligations in these circumstances:
  - Where the money is unallocated for any project
  - Where the money cannot be spent on the previously identified project because the project falls or fails
  - Where the money is paid subject to a condition that it be spent on a specified project within a specified time.
12. Considering and monitoring the effectiveness of the Council's land use policies in respect of the District's towns, villages and countryside as expressed through the Local Plan and related Land Use Policy documents.

13. Taking action under relevant legislation in respect of the protection, enhancement and preservation of the physical and natural environment, save where powers have been delegated to the Planning Committee in respect of:

- Building preservation (particularly those designated as being of special architectural or historic interest)
- Designation and enhancement of Conservation Areas
- Preservation of trees and woodlands.

14. Monitoring and considering Ombudsman investigation reports and other complaints made.

15. Considering and awarding compensation in excess of £5,000 in the event that a complaint investigation finds in a complainant's favour.

16. In line with the limits listed in the Financial Procedure Rules set out in Part 6 of this Constitution approval of:

- the virement of monies received in accordance with the terms of any agreement made under Section 106 Town Country Planning Act 1990;
- virements of expenditure within relevant service area budgets;
- the drawing down of funds; and
- the award of grants to organisations, including discretionary rate relief.

## **APPENDIX 2**

### **RESERVED MATTERS**

The functions set out in Appendix 1 above are all delegated to officers except for the following functions, which are expressly reserved to committee for determination and cannot be discharged by an officer:

1. Approving any draft service area policies (for public consultation e.g. DPD or SPD) where these do not require a Full Council decision under the Policy Framework at Article 4 of this Constitution;
2. Recommending to Full Council the adoption of Local Plan Documents and SPD;
3. Recommending to Full Council that a NDP should be made following a successful referendum
4. Agreeing response to other plan making authorities under the 'Duty to Cooperate'
5. To Note background evidence base documents
6. To Note monitoring of the effectiveness of the Council's land use policies in respect of the District's towns, villages and countryside as expressed through the Authorities Monitoring Reports and other reports e.g. HELAA; Brownfield Land Register; Custom & Self Build Register;
7. Making recommendations to the Full Council for approval of the implementation and governance of the CIL charging schedule
8. Agreeing and recommending the Community Infrastructure Levy (CIL) Infrastructure Investment Plan (IIP) for approval to Full Council;
9. Approving funding for infrastructure projects, which are:
  - not listed on the latest Council approved Community Infrastructure Levy (CIL) Infrastructure Investment Plan (IIP); and
  - under the value of £25,000.
10. Monitoring and considering Ombudsman investigation reports and other complaints made.
11. Considering and awarding compensation in excess of £5,000 if a complaint investigation finds in a complainant's favour

For the avoidance of doubt, it is hereby stated that Committee retains the power to decide any matter which is delegated to officers.

### **Procurement**

Awarding contracts valued at over £100,000 unless prior authorisation has been obtained by report to committee approving the budget and setting out relevant heads of terms of the contract

**Outside Bodies**

The Committee will receive feedback reports from the Council's representatives or appointees on outside bodies as appropriate.