

# CHRISTCHURCH TOWN COUNCIL

## MEMORANDUM TO PLANNING AND REGULATORY COMMITTEE

### A. INTRODUCTION

1. PRC came into existence at our first Annual Council In May 2019. It is composed of a mixture of members, some of whom have considerable experience of “development management“ at Christchurch Borough Council (CBC) and Dorset County Council (DCC) and some who have had no previous experience of the planning system.
2. This has led to a slightly confused position: members who served (sometimes for many years) on the Planning (Control) Committee of Christchurch Borough Council find that the locus of their position has changed: from being able to determine applications they now serve on “merely” a “statutory consultee“ on these applications. It should be noted, though, that CBC’s Planning Committee itself acted as a “Statutory Consultee” e.g. on the plans for the proposed new primary school in north-west Christchurch. On the other hand, the majority of members have no planning experience (though in one case a member has considerable knowledge and experience of planning as an applicant or consultant)
3. The Committee’s powers are those of any statutory consultees – it can **support** an application, **comment** on an application e.g. by suggesting additional conditions, or it can **oppose** an application. In all cases members must make their decision based on material planning considerations and with reference to the Planning Policy Framework.
4. It can confidently be said that it was the aim of those who served as Chairman of CBC’s planning control committee over the last 20 years of its existence (Cllrs Hickey, Jones, Jamieson and Dedman) that business should be conducted in such a fashion that all those involved in an application should feel that the Committee had dealt with each participant absolutely fairly. With some eight months’ existence and experience behind us may be possible to identify some aspects of our procedure which might militate against this ambition and suggest some solutions.

### B. PROCEDURE AS AT PRESENT

1. Superficially the procedure we follow resembles that of the CBC committee, but there are very significant variations.

CBC Planning (Control) Committee	CTC Planning and Regulatory Committee
Chairman introduces item formally	Chairman introduces item formally
Officer presents application	-

CBC Planning (Control) Committee	CTC Planning and Regulatory Committee
Public Speaking – Until 2015 total of 5 minutes a “side” From 2015 3 minutes per speaker	Public Speaking - 3 minutes per speaker
<i>No further public participation</i>	<i>No further public participation</i>
Members question officer	
Matter opened for debate. Ward member (or Vice-Chairman in cases of Borough-wide importance) leads debate	Matter opened for debate. Member responsible for call-in leads debate.
Motion to <b>approve</b> (as set out or with additional / fewer conditions, <b>defer</b> (for specific reasons) or <b>refuse</b> (contravention of specific policies must be referenced) proposed, seconded and put to vote.	Motion to <b>Raise objection</b> (contravention of specific policies must be referenced) <b>Raise no objection</b> (including suggestion of further conditions) or <b>support</b> proposed, seconded and put to vote.*
If proposition falls then Chairman seeks an alternative motion.	If proposition falls then Chairman seeks an alternative motion.

\* PRC does have the right to defer consideration of an application but on general this would be of limited utility because the time schedule for consultation before determination is set by BPC, not CTC..

It is suggested that there are certain weaknesses which can now be identified in this process.

### ***I. Lack of information***

A typical report by CBC officers on a householder application is attached for reference and members are urged to study this report. Members will note that the report goes into considerable detail including the planning history of the site, comments received from neighbours, Comment by statutory consultees, etc.

It is obvious that such a report cannot be presented to PRC – all the information which the District Council officer will use to draw up his/her report is simply not available and in any event will take into account any comment which CTC might submit. (In the same way when CBC was commenting on a DCC application the DCC planning officer would draw up a report which would differ from the CBCs planning officer’s Report as a Statutory Consultee to be approved or otherwise by CBC’S Planning control committee.

Yet inevitably the information received by PRC might be felt (in most cases) to be biased against the applicant. Objectors will probably have supplied committee members with information which it is impossible to check for partiality; supporters similarly may have provided such information.

## **2. Lack of Applicant representation**

Objectors are usually highly motivated to speak against an application at committee. This committee has seen many well argued and well presented Objections – for example, the opposition to applications for 1 Twynham Avenue, the Coastguard Site and others - but it is difficult to remember an application where a supporter has taken the opportunity to address the committee.

A well resourced applicant ( e.g. the applicant for the Coast Guard site) can always seek to make a presentation to the Committee but this can suffer from lack of transparency as these presentations are by definition private. Single householder applicants, while they may circulate information to members, may well be unaware of their right to appear.

## **3. Restriction on the Provision of Information**

CTC has followed the practice of CBC (and DCC) in that while the public are able to participate in the process in the “public speaking slot”, during that “slot” there is no check on the information which may be passed on and members cannot challenge a statement. One issue which, it is understood, has yet to be resolved arose on consideration of the outline application for Roeshot Hill when an applicant’s agent made a most controversial statement which was instantly objected to on grounds of accuracy by an opponent. This statement was ruled to be immune from challenge.

Further, once consideration has passed that point no further information, in whatever form, can be passed to the members. At DCC a lack of vital information came to light and a cumbersome procedural process of adjourning the meeting to allow an “informal” statement by the applicant had to be followed.

## **4. Synchronicity issues**

- a. In the debate over the creation of the new District Council there were concerns that the interests of Christchurch might well be ignored by the new Local Planning Authority. (LPA) Recent decisions may, it can be argued, bear this out. It has to be accepted that the District Council, whatever its faults (and in the opinion of the present author there are many) is in place and its members will take decisions on what they believe to be appropriate planning grounds.
- b. What cannot be disputed is that the limitations on individual members’ “call in” powers to the District Council do hamper this present council. In the debates on the creation of the “super-“ district it was frequently said by supporters of the proposal that much of the difficulties would be resolved by the ability of the Councillors representing wards in Christchurch to “call-in” applications which they felt would (in planning terms) cause difficulties.

- c. It may be argued that the root cause of this particular problem is that the constitution adopted by the shadow authority in 2018 and carried forward to the Bournemouth Poole and Christchurch District Council. This prohibited call-in of any householder application. The new Administration sought to resolve the problem by amendment in the summer of 2019 but unfortunately seems to have adopted the proposal by Officers that call-in can only occur in the very early stages of an application's consideration. Obviously there are times when difficulties with an application only come to light later in the process. Consideration of the application at Bure Homage Lane reflects this.

## **C. POSSIBLE PROCEDURAL AMENDMENTS**

It is suggested that there are possible solutions to these perceived problems, some which may involve actions by members, some of which may be resolved by amending our own procedures, some of which will need the approval of Full Council for constitutional amendments, and some of which will need the co-operation of the District Council.

### **I. Matters within the control of the Committee**

- a. It has already been noted above that it is simply not possible for the district council officers to provide CTC with detailed planning reports: not only is it outwith their job specification, but given that CTC's comments will inform part of that Report it will be understood that a full report is impossible. However it should be possible to amplify the information on which the committee will base its decision.
- b. Full details of an application are published on the appropriate website and the Town Clerk, acting as committee administrator, when notifying members of a consultation includes a hyperlink to this information. While it is not a requirement for members to familiarize themselves with this information members are strongly advised to do this and if necessary visit the site, or at least study it on Google Earth.
- c. Applicants should be informed of the right to appear at Committee and to provide information to Members in advance of the meeting.
- d. Objectors should be encouraged to circulate information to Members (such as photographs) before the meeting
- e. Members "calling-in" an application for consideration by the Town Council's Committee could:-
  - o copy the LPA in on their "call in" and the Town Council should provide the opportunity for the Case Officer to attend Committee and, at his/her discretion, address the Committee.
  - o Copy the applicant in on the call-in and the reasons for it

- be prepared to introduce the matter in debate

*CBC operated a convention whereby although any Member of the Borough Council could call in an application it was expected that Members would only exercise this right in respect to applications in their own ward or in an immediately adjacent ward where the application would impact on that Member's ward and it is suggested that CTC members follow this convention.*

## **2. Matters within the control of the Council**

Public Speaking at Committees is established by the Council's Constitution and it is suggested that the Constitution be amended to give Members, at the Chairman's discretion, the right to question members of the public on matters of fact arising from their presentations.

## **3. Matters on which representation should be made to the District Council**

- a. Under most of the Chairman of the CBC Planning (Control) Committee since 1999 objection by either Burton or Hurn Parish Council to an application leading to the De Facto automatic calling-in of that application by the chairman of planning control committee under chairman's prerogative.
- b. At meetings of DCC's Regulatory Committee members of a parish council wishing to speak on an application were allowed to speak as of right and were allocated 3 minutes. Members are of a Borough or District Council were also allowed to speak and were allowed 5 minutes..
- c. Decision-making on planning applications has been transferred from Christchurch to the new district council and inevitably Christchurch councilors who are in a small minority on this Committee. Members of the public wishing to make representations on an application can face a tiresome (and expensive, if by public transport) journey to the other side of the conurbation to exercise their rights. As it was repeatedly argued during the debates home setting up the District Council this creates an inherent democratic deficit.
- d. This was acknowledged by then Chief Executive of Christchurch Borough Council, who was regarded as a strong supporter of reorganization, when he addressed CBC Members in the autumn of 2015 setting out the proposals. He suggested that the creation of a "third tier" council would be a way of addressing this deficit. This was one of the principal factors which led to CBC to establish this Town Council .
- e. Yet in the triumvirate of power, authority and influence, in matters of planning (and in many other matters) CTC has neither power nor authority but it should have influence. This has led some members of the public to question the purpose of the Council.

- f. When DCC was considering reorganization there was a strong belief that the parish and town councils should be empowered to do much of the work of the former U9second-tier Councils. Studies were under way to establish ways in which this could be extended to development control. The BCP Shadow Authority on the other hand wished to have nothing to do with Parish or Town Councils and indeed many of the members of that Authority queried whether any third-(now second-) tier authority was necessary.
- g. CTC cannot of itself remedy this problem (save by making a success of what we do do). But we can attempt to use whatever influence we do have to deal with the issue.
- h. This can be undertaken in two ways. The Council itself can make representations, and while it is established that the Council cannot mandate any of its members who serve on a first-tier authority to act in a certain way. There is nothing to stop the Council bringing the matter to the attention of such members and asking for their support.
- i. Members will recall that concerns over the democratic deficit inherent in the creation of a unitary authority led this Council to express a wish that the District Council amend its constitution :
- By amending the time limits for call-in to commence after the publication of the Officer's recommendation;
  - By allowing the right of call-in to the Town and Parish councils in the District;
  - By allowing Town Councillors to have a right of addressing the BCP Committee in addition to the rights granted to members of the public

## **D. RECOMMENDATIONS**

it is suggested that

1. This Committee establishes a Working Party to examine the points raised in this Memorandum, such working party to consist of the Chairman, Vice-Chairman, one other Member of the Planning and Regulatory Committee and one Member of the Council who is not a present Member of the Planning and Regulatory Committee;
2. That the Working Party report to the February meeting of the Committee;
3. That in the meantime referring Members take steps to advise the LPA and the Applicant (or his/her agent) of the referral and the right of the Applicant to make representations and/or address the Committee.

dcj

26 January 2020, the fifth day before Brexit.