Planning Committee Reforms

Mike Kiely, POS Chair

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Planning Officers Society

POS has produced 2 Good Practice Guidance Notes

- Planning Committee Reforms, containing:
  A. Planning Scheme Of Delegation & Planning Scheme of Management
  B. Vexatious Customer Procedure
  C. Planning Committee Procedures
  D. Planning Code Of Conduct
  E. Planning Committee Report Template
  F. Planning Committee Update Report Template
- Strategic Applications, containing:
  A. PPA Planning Statement
  B. PPA Project Plan (Gantt Chart)
  C. PPA Programme Tracker
  D. Planning Performance Agreement
  E. PPA Planning Committee Report Template
  F. Customer Advice Note – The PPA Service
  G. Customer Advice Note – Presenting to Committee

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Today's Agenda

Unpacking the new NSD Regulations

Helping you update your Constitution

How 'Strategic' Planning Committees should operate

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Part 1

Unpacking the new
NSD Regulations

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National Scheme of Delegation

- Planning Committees: maximum size of 13 members.
- Schedule 1 Applications
  - Must be dealt with under delegated powers – no exceptions.
- Schedule 2 Applications
  - Must be dealt with under delegated powers, unless:
  - Nominated member and officer agree the Gateway Test criteria have been met (Reg 5(2)).
- Own-Interest Applications
  - Must be dealt with under delegated powers, unless:
  - Nominated member and officer agree that Committee consideration is necessary.
- Everything else (eg enforcement) is up to the LPA to decide in their constitution.

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Schedule 1 Applications

1. Certificates of Appropriate Alternative Development
2. Certificates of Lawfulness of Proposed Works on Listed Buildings
3. Householder applications
4. Minor Commercial applications
5. Minor Residential applications
6. Permission In Principle applications
7. Section 73 applications for Schedule 1 permissions
8. Section 96A applications
9. Planning Obligations for Schedule 1 developments
10. Certificates of Lawfulness of Existing Use or Development
11. Certificates of Lawfulness of Proposed Use or Development
12. Submission of a Biodiversity Gain Plans
13. Reserved Matters Approval applications except in relation to a large outline permission
14. Discharge of planning conditions
15. GPDO Prior Approvals or determinations as to whether Prior Approval is required

Schedule 2 Applications

1. Listed Building Consent applications
2. Variation or discharge of Listed Building Consent conditions
3. Applications for Planning Permission connected with an application in paragraph 1 or 2
4. Applications for Planning Permission that is not a Schedule 1 Application
5. Section 73 applications for a Schedule 2 permissions
6. Section 73A applications for retrospective developments
7. Schedule 2 Planning Obligations
8. Reserved Matters Approval applications in relation to a large outline pp (10+ homes etc)
9. Advertisement Consent applications
10. Tree Preservation Order Consent applications

Schedule 2 Applications: Gateway Test

Regulation 5

1. *A relevant local planning authority must make arrangements so that any Schedule 2 application made to that authority is determined in accordance with paragraphs (2) to (4).*
2. *Any Schedule 2 application that is not referred to a committee in accordance with paragraph (3) must be determined by an officer of that authority.*
3. *The nominated member and nominated officer may agree to refer a Schedule 2 application to a committee if in their view the proposal raises:*
   a) *one or more issues of economic, social or environmental significance to the local area, or*
   b) *one or more significant planning matters having regard to the development plan and any other material considerations.*
4. *In considering whether to make a referral under paragraph (3), the nominated member and the nominated officer must have regard to any relevant guidance issued by the Secretary of State under section 319ZZE(4) of TCPA 1990.*

- There is MHCLG Guidance on applying these tests.
- What if there's no agreement?

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Schedule 2 Applications: Triage Process

- *Guidance paragraph 14*
  - *Where local planning authorities anticipate that there may be a significant number of Schedule 2 or own-interest applications which may need to be considered for referral to committee they may wish to put in place a triage system to ensure that the nominated officer and nominated member of the committee are not overwhelmed and to avoid any unnecessary delays in planning decision making.*

- POS recommends that this is carried out in two stages:
  - In the Constitution – this ensures that all the stuff that is currently delegated is kept so.
  - Set it out in a Scheme of Management – that in the context of an application, an officer with delegated powers can triage it and deal with it under delegated powers if they they consider that the criteria in Regulation 5(3) (ie the Gateway Test) are clearly not engaged.

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Own-Interest Applications

- A Schedule 1 or 2 application where:
  a) *the application is made (whether or not jointly with any other person) by or on behalf of:*
     I. *that authority,*
     II. *a member of that authority, or*
     III. *an officer of that authority, or*
  b) *in the view of the nominated member and the nominated officer, the authority or any of its members or officers otherwise has an interest in the application.*

- Must be dealt with under delegated powers, unless:
  - Nominated member and officer agree that Committee consideration is necessary.

- POS recommends that you have clear criteria.

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Own-Interest Applications: Triage Process

Use the following process to deliver openness and transparency:

- Apply the following criteria <u>to the applicant</u>:
  - In the context of (a)(iii) an officer of that authority should normally be limited to:
    - a Senior Officer of the Council (eg Service Head or above); or
    - an 'officer of the Local Planning Authority' (eg anyone with day-to-day involvement with planning).
  - Any other officer likely to not be 'known' to the decision maker – therefore dealt with as normal.
- Otherwise, apply the following criteria <u>to the development</u>:
  - Whether the proposal has been advertised under Article 15 of the DMPO because it does not accord with the provisions of the development plan; or
  - Have one or more material planning considerations been raised that have the potential to have a significant impact.
- This ensures that only those applications that need to, go to planning committee.
- What if there's no agreement?

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Part 2

Helping you update your
Constitution

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Council’s Constitution: Scheme of Delegation

- All planning matters should be delegated to the CPO except what must go to:
  - Full Council:
    - DPDs – submit for examination or adoption
    - CIL Charging Schedule – submit for examination, approval or withdrawal
  - The Executive:
    - Consult on a LDF document
    - Adopt an SPD, LDS or SCI
    - Approve an AMR
    - Neighbourhood Plans – authorise one to go to referendum or agree that one be ‘made’
    - Designate a Conservation Area
  - Planning Committee:
    - Schedule 2 Applications that meet the Gateway Test
    - Own-Interest Applications that need to go to PC
    - Any other planning matter that an officer (with delegated powers) considers necessary

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Constitution: other important stuff 1

- Set out the constitution-based Triage process.
- Requires the production of a Planning Scheme of Management that sets out:
  A. the member who acts as the Nominated Member;
  B. one or more members who act as a substitute for the Nominated Member;
  C. the officer who acts as the Nominated Officer; and
  D. one or more officers who act as a substitute for the Nominated Officer.
  - It should also deal with sub-delegation to officers from the CPO.
- Ban lobbying about reporting an application to PC – Vexatious Customer Procedure:
  - Stage 1 – infringement explained & potential sanction set out
  - Stage 2 – final warning given
  - Stage 3 – sanction imposed – defined limited appeal – annual review based on reformed behaviour
- PC Terms of Reference.

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Constitution: other important stuff 2

The way planning operates should be set out clearly so that you are protected.

- Planning Committee Procedures:
  - Committee recommendation format – delegated powers & summarised conditions – POS template
  - Public speaking rules – no supporter slot
  - Late material and other updates – clear rules & deadlines – POS template
  - Withdrawn agenda items – it's the CPO's report, so their decision alone – not a committee decision
  - Attendance during Committee – also cover when a matter is considered across 2 meetings
  - Duration of meetings – guillotine – non-considered items revert to delegated powers
  - Voting procedures – especially when committee is minded to go against the recommendation
  - Committee minutes – only include what you need to
  - Site visit procedures – avoid them except where necessary and be clear as to their purpose
- Planning Code of Conduct:
  - Based on the LGA/PAS document: Probity in planning: Advice for councillors and officers making planning decisions

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Scheme of Management

Keep all this stuff outside the constitution so it's easier to change.

- In addition to:
  - Setting out the nominated members & officers & their substitutes
  - Articulating sub-delegation
- Set out clear procedures for using delegated powers:
  - Always state the reason for using delegated powers or reporting to PC in the report – use standard wording in report templates
  - How Schedule 2 triaging works
  - How the Gateway Test works
  - How Interested-Person triaging works
- Officers' discretion to use delegated powers.
- POS advice in the GPGN on Transparency & Reporting.

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Part 3

How ‘Strategic’
Planning Committees
should operate

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Planning Committee

- We will effectively only have strategic planning committees post 31/10/26 – they are very different to ordinary planning committees.
- Pre-application process based on the RIBA Plan of Work stages – main tools are:
  - Planning Statement
  - PPA Template
  - Project management – Project Plan (Gantt Chart) & Programme Tracker
- Report to committee at key stages:
  - Stage 1 – pre-app draft scheme
  - Stage 2 – pre-app draft submission
  - Stage 3 – determination – if needed
- Produce customer guidance on:
  - The PPA service
  - Presenting at PC in the pre-application stage
- Presenting at the pre-app stage should help with the Gateway Test.

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RIBA Plan of Work 2020

The RIBA Plan of Work organises the process of briefing, designing, delivering, maintaining, operating and using a building into eight stages. It is a framework for all disciplines on construction projects and should be used solely as guidance for the preparation of detailed professional services and building contracts.

Stage Boundaries:
Stages 0-4 will generally be undertaken one after the other.
Stages 4 and 5 will overlap in the **Project Programme** for most projects.
Stage 5 commences when the contractor takes possession of the site and finishes at **Practical Completion**.
Stage 6 starts with the handover of the building to the client immediately after **Practical Completion** and finishes at the end of the **Defects Liability Period**.
Stage 7 starts concurrently with Stage 6 and lasts for the life of the building.

Planning Note:
Planning Applications are generally submitted at the end of Stage 3 and should only be submitted earlier when the threshold of information required has been met. If a **Planning Application** is made during Stage 3, a mid-stage gateway should be determined and it should be clear to the project team which tasks and deliverables will be required.
See Overview guidance.

Procurement:
The RIBA Plan of Work is procurement neutral – See Overview guidance for a detailed description of how each stage might be adjusted to accommodate the requirements of the **Procurement Strategy**.
ER Employer's Requirements
CP Contractor's Proposals

	0 Strategic Definition	1 Preparation and Briefing	2 Concept Design	3 Spatial Coordination	4 Technical Design	5 Manufacturing and Construction	6 Handover	7 Use
		Projects span from Stage 1 to Stage 6; the outcome of Stage 0 may be the decision to initiate a project and Stage 7 covers the ongoing use of the building.						
Stage Outcome at the end of the stage	The best means of achieving the **Client Requirements** confirmed If the outcome determines that a building is the best means of achieving the **Client Requirements**, the client proceeds to Stage 1	**Project Brief** approved by the client and confirmed that it can be accommodated on the site	**Architectural Concept** approved by the client and aligned to the **Project Brief** The brief remains "live" during Stage 2 and is derogated in response to the **Architectural Concept**	Architectural and engineering information **Spatially Coordinated**	All design information required to manufacture and construct the project completed Stage 4 will overlap with Stage 5 on most projects	Manufacturing, construction and **Commissioning** completed There is no design work in Stage 5 other than responding to **Site Queries**	Building handed over, **Aftercare** initiated and **Building Contract** concluded	Building used, operated and maintained efficiently Stage 7 starts concurrently with Stage 6 and lasts for the life of the building
Core Tasks during the stage **Project Strategies** might include: – Conservation (if applicable) – Cost – Fire Safety – Health and Safety – Inclusive Design – Planning – Plan for Use – Procurement – Sustainability See *RIBA Plan of Work 2020 Overview* for detailed guidance on **Project Strategies**	Prepare **Client Requirements** Develop **Business Case** for feasible options including review of **Project Risks** and **Project Budget** Ratify option that best delivers **Client Requirements** Review **Feedback** from previous projects Undertake **Site Appraisals** No design team required for Stages 0 and 1. Client advisers may be appointed to the client team to provide strategic advice and design thinking before Stage 2 commences.	Prepare **Project Brief** including **Project Outcomes** and **Sustainability Outcomes**, **Quality Aspirations** and **Spatial Requirements** Undertake **Feasibility Studies** Agree **Project Budget** Source **Site Information** including **Site Surveys** Prepare **Project Programme** Prepare **Project Execution Plan**	Prepare **Architectural Concept** incorporating **Strategic Engineering** requirements and aligned to **Cost Plan**, **Project Strategies** and **Outline Specification** Agree **Project Brief Derogations** Undertake **Design Reviews** with client and **Project Stakeholders** Prepare stage **Design Programme**	Undertake **Design Studies**, **Engineering Analysis** and **Cost Exercises** to test **Architectural Concept** resulting in **Spatially Coordinated** design aligned to updated **Cost Plan**, **Project Strategies** and **Outline Specification** Initiate **Change Control Procedures** Prepare stage **Design Programme**	Develop architectural and engineering technical design Prepare and coordinate design team **Building Systems** information Prepare and integrate specialist subcontractor **Building Systems** information Prepare stage **Design Programme** Specialist subcontractor designs are prepared and reviewed during Stage 4	Finalise **Site Logistics** Manufacture **Building Systems** and construct building Monitor progress against **Construction Programme** Inspect **Construction Quality** Resolve **Site Queries** as required Undertake **Commissioning** of building Prepare **Building Manual** Building handover tasks bridge Stages 5 and 6 as set out in the **Plan for Use Strategy**	Hand over building in line with **Plan for Use Strategy** Undertake review of **Project Performance** Undertake seasonal **Commissioning** Rectify defects Complete initial **Aftercare** tasks including light touch **Post Occupancy Evaluation**	Implement **Facilities Management** and **Asset Management** Undertake **Post Occupancy Evaluation** of building performance in use Verify **Project Outcomes** including **Sustainability Outcomes** Adaptation of a building (at the end of its useful life) triggers a new Stage 0
Core Statutory Processes during the stage: Planning Building Regulations Health and Safety (CDM)	Strategic appraisal of **Planning** considerations	Source pre-application **Planning Advice** Initiate collation of health and safety **Pre-construction Information**	Obtain pre-application **Planning Advice** Agree route to **Building Regulations** compliance Option: submit outline **Planning Application**	Review design against **Building Regulations** Prepare and submit **Planning Application** See *Planning Note* for guidance on submitting a **Planning Application** earlier than at end of Stage 3	Submit **Building Regulations Application** Discharge pre-commencement **Planning Conditions** Prepare **Construction Phase Plan** Submit form F10 to HSE if applicable	Carry out **Construction Phase Plan** Comply with **Planning Conditions** related to construction	Comply with **Planning Conditions** as required	Comply with **Planning Conditions** as required
Information Exchanges at the end of the stage	**Client Requirements** **Business Case**	**Project Brief** **Feasibility Studies** **Site Information** **Project Budget** **Project Programme** **Procurement Strategy** **Responsibility Matrix** **Information Requirements**	**Project Brief Derogations** Signed off **Stage Report** **Project Strategies** **Outline Specification** **Cost Plan**	Signed off **Stage Report** **Project Strategies** Updated **Outline Specification** Updated **Cost Plan** **Planning Application**	**Manufacturing Information** **Construction Information** **Final Specifications** Residual **Project Strategies** **Building Regulations Application**	**Building Manual** including **Health and Safety File** and **Fire Safety Information** **Practical Completion** certificate including **Defects List** **Asset Information** If **Verified Construction Information** is required, verification tasks must be defined	**Feedback** on **Project Performance** **Final Certificate** **Feedback** from light touch **Post Occupancy Evaluation**	**Feedback** from **Post Occupancy Evaluation** Updated **Building Manual** including **Health and Safety File** and **Fire Safety Information** as necessary

Procurement Route

	0	1	2	3	4	5	6	7
Traditional	Appoint client team	Appoint design team			Tender Appoint contractor			Appoint **Facilities Management** and **Asset Management** teams, and strategic advisers as needed
Design & Build 1 Stage					ER CP Appoint contractor			
Design & Build 2 Stage			ER	Pre-contract services agreement	CP Appoint contractor			
Management Contract Construction Management			Appoint contractor					
Contractor-led			ER	Preferred bidder	CP Appoint contractor			

Core RIBA Plan of Work terms are defined in the *RIBA Plan of Work 2020 Overview* glossary and set in **Bold Type**.

Further guidance and detailed stage descriptions are included in the *RIBA Plan of Work 2020 Overview*.

RIBA Architecture.com

https://www.riba.org/work/insights-and-resources/riba-plan-of-work/

A 5-stage process: Stage 1 Initiation: strategic input

Developer inputs	What happens	Expected outcomes
OS map of the site Description of development	Meeting with more senior officers (on large schemes Corporate & Political Leadership) to look at strategic issues Consider and agree strategic issues and the process needed to address them	Planning Statement/masterplan Project Plan Planning Performance Agreement Draft community engagement strategy EIA Screening Opinion Ward member input
This takes the scheme through RIBA Stage 0 Strategic Definition & Stage 1 Preparation & Briefing		

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Stage 2 Urban Design: defining the place

Developer inputs	What happens	Expected outcomes
Draft Design & Access Statement including an urban design analysis Draft concept scheme, potentially including options	Understand the site, it's surroundings and the nature of the development and how it can be accommodated Establish urban design principles in one or more design workshops. Discuss consultation methodology & identify relevant consultees	Design & Access Statement Concept scheme, potentially including options EIA Scoping Opinion (if required) Confirmation of required technical studies Consultation Strategy Design Review Panel Presentation to Planning Committee
This starts RIBA Stage 2 Concept Design		

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Stage 3 Community Engagement

Developer inputs	What happens	Expected outcomes
Illustrative material of proposed scheme, potentially including options	Meaningful engagement with the community affected An explicit feedback session	Draft statement of community involvement Amendments to concept scheme
This completes RIBA Stage 2 Concept Design		

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Stage 4 Application Preparation: addressing the issues

Developer inputs	What happens	Expected outcomes
Draft planning application Draft EIA (if required) and other supporting documents Draft heads of terms of S106 legal agreement	Consider and address the comments raised by the local community One or more workshops to understand the details of the development, its impacts on immediate neighbours and the surrounding area	Completed planning application EIA (if required) Agreed S106 heads of terms Ward member input Design Review Panel Presentation to Planning Committee
This starts RIBA Stage 3 Developed Design (now called Spatial Coordination)		

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Stage 5 Closedown: finalising the application

Developer inputs	What happens	Expected outcomes
Final amendments to planning application Final EIA and other supporting documents Final amendments to heads of terms of S106 legal agreement	Address any final comments from members Finalise the application & S106 legal agreement	A valid planning application ready for submission A well-designed scheme that benefits from a fronted loaded process Review of process
This completes RIBA Stage 3 Developed Design (now called Spatial Coordination)		

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Questions?

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