

21 June 2022 at 7.00 pm

Council Chamber, Argyle Road, Sevenoaks

Published: 13.06.22

This meeting will also be livestreamed to YouTube here:

[https://www.youtube.com/channel/UCIT1f\\_F5OfvTzxjZk6Zqn6g](https://www.youtube.com/channel/UCIT1f_F5OfvTzxjZk6Zqn6g)



## Governance Committee

### Membership:

Chairman, Cllr. Eyre; Vice-Chairman, Cllr. Nelson

Cllrs. Barnes, Bayley, Clayton, Penny Cole and Harrison

### Agenda

There are no fire drills planned. If the fire alarm is activated, which is a continuous siren with a flashing red light, please leave the building immediately, following the fire exit signs.

	Pages	Contact
Apologies for Absence		
1. <b>Minutes</b> To agree the Minutes of the meeting of the Committee held on 13 April 2022, as a correct record.	(Pages 1 - 4)	
2. <b>Declarations of Interest</b> Any interest not already registered		
3. <b>Actions from the previous meeting (if any)</b>		
4. <b>Development Control Committee Working Group Feedback - Rules For Addresses To Committee</b>	(Pages 5 - 18)	Martin Goodman Tel: 01732227245
5. <b>Work Plan</b>	(Pages 19 - 20)	

### EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or [democratic.services@sevenoaks.gov.uk](mailto:democratic.services@sevenoaks.gov.uk).

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**GOVERNANCE COMMITTEE**

Minutes of the meeting held on 13 April 2022 commencing at 7.00 pm

Present: Cllr. Eyre (Chairman)  
Cllr. Nelson (Vice-Chairman)  
Cllrs. Barnes, Bayley, Harrison

9. Minutes

Resolved: that the minutes of the meeting held on 22 June 2021 be approved and signed by the Chairman as a correct record.

10. Declarations of Interest

There were none.

11. Actions from the previous meeting

There were none.

12. Electric Vehicle Mileage

The Monitoring Officer presented the report which proposed that he be authorised to amend the Constitution regarding electric vehicle mileage to reflect HMRC rates for mileage payments which was, at the time, set at 5p per mile.

Members considered the report.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: that it be recommended to Council that the Monitoring Officer be authorized to amend the Members' allowance Scheme so as to reflect the HMRC rates for mileage payments in respect of electric vehicles.

13. Notice of Summons to Meetings

The Monitoring Officer presented the report which proposed an alteration to Part two of the Constitution allowing formal summons to meetings to be provided electronically by email.

The report proposed a change in line with the current legislative position as related to giving notice of meetings. It was hoped that this would lead to a reduction in courier movements in favour of formal legal service of meeting documents by email. The report would not prevent members from receiving a paper copy of agendas.

Members discussed the report and asked questions of clarification.

It was stressed that the proposal related to the manner by which the formal summons of meeting documents was made and not to ceasing the provision of paper agenda packs to Members.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: that it be recommended to Council that:

- a. Members approve the revisions to Part 2 of the Constitution set out in the report;
- b. pursuant to the Council's Net Zero 2030 ambitions, Members agree to accept formal legal service of meeting documents by email;
- c. Members note that paper copies of meeting agendas and reports will continue to be available in advance of meetings notwithstanding electronic service.

14. Development Control Committee Procedures

The Monitoring Officer presented the report which proposed a working group to report to the Governance Committee on plans to adjust part 7 of the Constitution and review the Development Control Committee procedures.

The proposals set out in the report solely related to consideration of the Rules for Addresses to the Committee at Meetings of Development Control Committee (paras 3.27 - 3.37); Site Inspections (paras 3.17 - 3.26 - not including procedures *at* the Inspections); and the order of business.

The report suggested a Working Group be established. The Working Group was proposed to report back to the following meeting of the Governance Committee and would consist of three members of the Committee. Any such Working Group

would not be established to devise new wording and should restrict itself to consideration of the principle of constitutional amendments.

Members considered the report and associated appendices.

It was confirmed that the Chairman, Vice Chairman and Cllr Bayley would attend the working group.

A member of Legal and Democratic Services would also attend and advise the first meeting of the Working Group.

It was also confirmed by the Monitoring Officer that legal challenges had not been made in regards to Development Control meetings.

#### Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: that

- a. a Working Group be formed to propose any necessary amendments in principle to Part 7 of the Constitution to the next meeting of the Governance Committee;
- b. The Working Group shall consist of three Members from the Governance Committee;
- c. The Working Group shall be advised by an Officer nominated by the Monitoring Officer, the Chairman of Development Control Committee and an Officer nominated by the Chief Officer - Planning and Regulatory Services;
- d. If so minded, the Working Group shall only make proposals in principle to amend Part 7 of the Council's constitution with in respect of the following matters:
  - i. Rules for Addresses to the Committee at Meetings of Development Control Committee (paras 3.27 - 3.37);
  - ii. Site Inspections (paras 3.17 - 3.26);
  - iii. The order of business (including rights to address the Committee) (paras 3.5 - 3.6).
- e. The Working Group is not established to agree the precise wording of any suggested changes.

#### 15. Chairman Events

The Monitoring Officer presented the report which laid out the various events that the Chairman of the Council had attended that civic year.

The Chairman and Vice Chairman of the Council, at the time of writing had been invited to 222 events in the District and attended 195. For events which were

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### Governance Committee - 13 April 2022

outside of the District 110 invitations had been received. Out of those 53 events were attended.

The Committee discussed the report and gave their Congratulations to the Chairman, Cllr Esler for her service during a difficult period of social isolation as the district emerged from the pandemic.

Resolved: that the report be noted.

#### 16. Work Plan

Members noted the work plan and the addition(s) below:

21 June 2022

- Development Control Procedures Working group report.

THE MEETING WAS CONCLUDED AT 7.11 PM

CHAIRMAN

## DEVELOPMENT CONTROL COMMITTEE PROCEDURES

Governance Committee - 21 June 2022

**Report of:** Monitoring Officer

**Status:** For consideration

**Also considered by:** Council - 19 July 2022

**Key Decision:** No

**Executive Summary:** This report recommends that the Working Group on Development Control Committee Procedures be reconstituted by the Governance Committee so that further work may be done.

**Contact Officer:** Martin Goodman, Ext. 7245

**Recommendation to Governance Committee:** That

- a. the Working Group on Development Control Committee Procedures be reconstituted with the same terms of reference as previously agreed;
- b. the Governance Committee receive the verbal report of the Working Group;
- c. the Working Group be requested to report to the next meeting of Governance Committee with its final written recommendations.

**Reason for recommendation:** To reconstitute the Working Group so as to allow its business to be completed.

### Introduction

- 1 At the last meeting of the Governance Committee it was resolved to form a Working Group to propose amendments (in principle) to Part 7 of the Constitution. This meeting will receive a verbal update on its progress.
- 2 The Working Group duly met and in accordance with the resolution considered the rules for addresses to the Committee (paras 3.27 - 3.37); the rules for site inspections (paras 3.17 - 3.26); and the order of business.
- 3 That Group must now be reconstituted in order to complete its work.

### Terms of Reference

- 4 The Working Group was originally founded pursuant to resolutions as follows:

## Agenda Item 4

- a. A Working Group be formed to propose any necessary amendments in principle to Part 7 of the Constitution to the next meeting of the Governance Committee;
- b. The Working Group shall consist of three Members from the Governance Committee;
- c. The Working Group shall be advised by an Officer nominated by the Monitoring Officer, the Chairman of Development Control Committee and an Officer nominated by the Chief Officer - Planning and Regulatory Services;
- d. If so minded, the Working Group shall only make proposals in principle to amend Part 7 with in respect of the following matters:
  - i. Rules for Addresses to the Committee at Meetings of Development Control Committee (paras 3.27 - 3.37);
  - ii. Site Inspections (paras 3.17 - 3.26);
  - iii. The order of business (including rights to address the Committee) (paras 3.5 - 3.6).
- e. The Working Group is not established to agree the precise wording of any suggested changes.

### **Other options Considered and/or rejected**

The other option available is to discontinue the Working Group.

### **Key Implications**

#### Financial

None.

#### Legal Implications and Risk Assessment Statement.

It should be noted that the legal position in relation to Development Control and the Development Control Committee is amply set out in the Constitution. In particular, Members are reminded of the need to act as if the Committee were a quasi judicial meeting.

Members are reminded of the need to avoid conflicts of interest, bias or pre-determination.

The Human Rights Act 1998 applies to proceedings of Development Control Committee.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the Council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.

**Conclusions**

It is recommended that the Working Group be reconstituted.

**Appendices**

Appendix A - Part 7 of the Constitution.

Background Papers - none.

**Martin Goodman**

**Monitoring Officer**

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## PART 7 - DEVELOPMENT CONTROL COMMITTEE

(Please also refer to Appendix N - Development Control Protocol)

### 1. Terms of Reference of the Committee

- (a) All planning, listed building and advertisement applications.
- (b) Revocation, modification and discontinuance orders and planning agreements relating to planning applications.
- (c) Enforcement of planning control; including the issue of Enforcement notices, listed building Enforcement notices, stop notices and abatement notices, and Enforcement and prosecution of contraventions of tree preservation orders, including the requirement for replacement planting.
- (d) Preservation and planting of trees, including the consideration of appeals against tree preservation orders and applications made thereunder.
- (e) All matters arising out of the operation of the Hedgerow Regulations 1997 or any subsequent changes thereto; and,
- (f) All decisions of the Council as Hazardous Substance Authority.

### 2. Membership of the Committee

19 Members of the Council to be chosen according to political proportionality rules. The Membership of the Committee can be found at Appendix H - Membership of Council Committees, Cabinet and Advisory Committees.

### 3. Procedure at Development Control Committee and Site Inspections

- (1) *This code will be applied in such a way that the right of the Chairman of the Committee to control the debate will be maintained.*
- (2) *“Local Member” means the Member for the District Council ward affected by a planning application which is to be included on an agenda for consideration by the Development Control Committee.*
- (3) *The agenda for the Development Control Committee will be dispatched a minimum of 5 working days before the meeting eg on the Wednesday of the preceding week for a Thursday Committee meeting. It is incumbent on Members of the Committee to ensure that they remain impartial and receptive to all points of debate before reaching a decision to vote on an application.*

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- 3.1 The Chairman, Vice Chairman and other Members, whether or not Members of the Committee, should recognise the effect that their behaviour can have on the public's perception of the Council and should conduct themselves accordingly. Members should represent the interests of the District as a whole.
- 3.2 Members should remain at meetings of the Committee until the end of the meeting unless they have a compelling reason not to do so.
- 3.3 Where a planning application has been submitted by the District Council and the appropriate Cabinet Member (responsible Portfolio Holder) is a Member of the Committee, that Member is strongly advised to leave the meeting when the matter is considered and not take part in the discussion or voting. Members should also be informed when an application on Council-owned land is to be considered by the Committee even if the applicant is not the District Council.
- 3.4 The Development Control Committee operates in a quasi-judicial manner. Accordingly, Members who enter the meeting during discussion of an application, or are not present during the whole of the discussion, should not vote on the application as they will not have heard all the arguments for and against the proposal. Members must make declarations of Interest, Lobbying and Pre-determination before any applications are debated. Copies of lobbying material received should where practicable be forwarded to the Chief Officer Planning and Regulatory Services.
- 3.5 Any Local Member who wishes to reserve an item for debate at Development Control Committee is asked to notify the Chairman/Vice Chairman prior to the meeting.

Subject to the Chairman's right to control the debate:

- (a) Any reports deferred for any reason from previous meetings of the Committee will normally be reserved for debate.
- (b) The Chairman will indicate those applications in respect of which members of the public have asked to speak, which shall automatically be reserved for debate.
- (c) When a Local Member has indicated to the Chairman of the Committee that s/he would wish to address the Committee on a particular application, the application will be reserved by the Chairman for subsequent discussion.
- (d) The Chairman will then read out the details of each remaining planning application from the index to the report, so that Members of the Committee who wish to move an amendment to the Chief Officer Planning and Regulatory Services' recommendation or make a

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comment on any particular application may so indicate, when such applications will automatically be reserved for debate.

- (e) The Chairman will then put all unreserved items to the vote en bloc; and,
- (f) The Chairman will then deal with items before the Committee in the following order:
  - (i) Items deferred from previous meetings of the Committee.
  - (ii) Items with public speakers.
  - (iii) Items reserved by Members of the Committee.
  - (iv) Enforcement cases.
  - (v) Amendments or variations to existing permissions; and,
  - (vi) Objections to Tree Preservation Orders.

3.6 In respect of any item reserved for debate the following procedure will be followed:

- (a) The Chairman will read out the application reference and address. The Officer will introduce the item and outline the key considerations and constraints, summarise the consultation responses and representations and provide the recommendation.
- (b) Address to Committee:- Speakers, who have previously registered to do so are invited to address the Committee in the following order, for a maximum of 3 minutes, (Local Members will have 4 minutes):
  - (i) A member of the public wishing to speak against the application.
  - (ii) The applicant, agent or another member of the public wishing to speak in favour of the application.
  - (iii) The Local Council representative (Town Council or Parish Council)
  - (iv) The Local Member(s) (whether or not a Member of the Committee) wishing to speak for a maximum of 4 minutes speech time. (Normal rules relating to motions and amendments as set out in the Constitution apply).
- (c) Those addressing the Committee including the local member(s) will not normally participate further in respect of that item. However, at

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the Chairman's discretion any of the initial speakers or local members may be asked a question of clarification. Any local Member who is a member of the Committee and speaks at the start of the item and has not uttered a prejudicial view will continue to be allowed to debate and vote on the item.

- (d) Members of the Committee will have the opportunity to ask questions of the Officers present.
- (e) Normal discussion of the Planning merits will then take place.
- (f) If a Member wishes to raise a new aspect to the debate on the item as a result of information brought to light during the debate then they will be allowed to do so at the discretion of the Chairman.
- (g) Members are requested not to speak at length on items where they are in full agreement either with the Officers' report or with the views of a Member who has spoken earlier in the discussion.
- (h) The vote will be taken after a motion has been moved and seconded, and after the Chairman, or other mover of a motion, has summed up. The Chairman will advise the meeting on the result of the vote including whether planning permission has been granted, refused etc.
- (i) The Legal Officer will inform the Chairman (unless already requested) of a need for him/her to advise the Committee in respect of any issues that arise from the debate, to ensure that the decision is based upon accurate and relevant law and to advise the Committee with regard to the legal impact of any proposed recommendation or motion.

### Decisions Contrary to Officer Recommendation

- 3.7 All Members are encouraged to raise any queries or issues they may have regarding a specific application report with the appropriate Area Team Manager as soon as possible, and in any event before the Chairman's briefing. This will enable Officers to consider the issues raised and discuss them with the Chairman.
- 3.8 Under normal circumstances a Member, having considered the Officers report and who has any factual questions or concerns about an aspect of that report, may contact the Development Control Manager or the Chief Officer Planning and Regulatory Services. This will enable such matters to be discussed at the Chairman's briefing, that normally takes place 2 working days before the Committee meeting, and to prepare for any additional advice for the meeting. If a Member's concerns relate to matters which require a visual assessment, the Area Team Manager or the Chief Officer Planning and Regulatory Services may discuss the desirability

of arranging a Committee Site Inspection with the Chairman. Committee Members are encouraged to attend these Site Inspections whenever possible.

- 3.9 On receipt of concerns from a Committee Member, the Development Control Manager or the Chief Officer Planning and Regulatory Services may choose to withdraw the report from the agenda to allow for further discussion or re-assessment.
- 3.10 A Planning Officer if so requested should assist in giving general policy reasons for refusal or conditions for approval to be attached to any permission. In the event of an appeal or a judicial review, it is imperative that the correct grounds for refusal or conditions for approval be cited on the published notice of decision.
- 3.11 In the event of a motion contrary to the Officer's recommendation being formally moved, the Officer(s) present will have the opportunity to address the Committee on the implications of such a decision having regard to the provisions of the Development Plan and all other material considerations, inclusive of implications for any subsequent appeal, before a vote on the motion is taken. Where appropriate the Officer may recommend to the Chairman (whose sole decision it shall be whether to accept that recommendation) that a decision on the application be deferred to enable a further report to be presented to the Committee addressing these issues raised by the debate and the implications.
- 3.12 Where a decision to grant or refuse permission contrary to the Officer recommendation occurs the reasons for such a decision taken by Committee should be clearly minuted. In the event of an appeal where the Committee has made a decision contrary to Officer advice, the appropriate Local Member or a Member of the Committee is expected to be actively involved in the Appeal if by written representation and to attend any Hearing or Public Enquiry when such is held.

#### Report Deferrals

- 3.13 Any decision to defer a report should be taken BEFORE any other decision to approve or refuse the report. Should the Committee be minded to refuse/approve the report pending deferral to await further information, then, when the report comes back to the Committee, debate must centre around the effect of the additional information on the proposal keeping in mind the opinion to approve or refuse voiced in the first instance. Public speakers may not speak again.
- 3.14 Should a report be deferred for further information without the Committee's opinion on whether it is minded to approve or refuse, then a debate may take place on the whole of the report together with the additional information.

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- 3.15 If a report is withdrawn or deferred without the opportunity for a registered public speaker to present their views then the public speaker(s) will be given the opportunity to address the Committee when the item is re-presented for decision.
- 3.16 Members may feel that the application should be viewed on site before a decision is made in which case an amendment/resolution for a Site Inspection is put to the Committee and, if approved, a set procedure is then followed at the Site Inspection.

### Site Inspections

- 3.17 A single Site Inspection time will be used for applications deferred by Committee and those identified for a pre-meeting inspection. This inspection will usually take place on the day of the Committee meeting.
- 3.18 Sites for pre-meeting inspections should be identified to the Chairman by Development Control Committee or Local Members at the earliest possible opportunity and in any event a full 3 working days before the Committee meeting, eg by 5pm on a Monday when the Committee meeting is at 7pm on a Thursday.
- 3.19 The Site Inspection will be open for all Development Control Committee and Local Members to attend.
- 3.20 No representations will be heard at Site Inspections and no recommendation will be formulated or a vote taken. The purpose is to view relevant features on or around the site.
- 3.21 The inspection will then inform the debate at the following Development Control Committee meeting.
- 3.22 Members' Site Inspections will be carried out where applications are to be determined by the Development Control Committee. The Chairman, in consultation with the Chief Officer Planning and Regulatory Services, will normally identify the need for any Site Inspections in advance of the meetings. Members who believe that a Site Inspection is appropriate in a particular case are encouraged to contact the Chief Officer Planning and Regulatory Services as soon as possible. This will include selecting appropriate viewpoints. Only exceptionally should an item be deferred for a Site Inspection. All Site Inspections will only be arranged where the proposal to hold a Site Inspection fits at least one of the following criteria.
- 3.23 A Site Inspection may be determined to be necessary if;
  - i. Particular site factors are significant in terms of weight attached to them relative to other factors and it would be difficult to assess those factors without a Site Inspection.

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- ii. The characteristics of the site need to be viewed on the ground in order to assess the broader impact of the proposal.
  - iii. Objectors to and/or supporters of a proposal raise matters in respect of site characteristics, the importance of which can only reasonably be established by means of a Site Inspection.
  - iv. The scale of the proposal is such that a Site Inspection is essential to enable Members to be fully familiar with all site-related matters of fact.
  - v. There are very significant policy or precedent issues and where site-specific factors need to be carefully assessed.
- 3.24 When requesting the Chairman of the Development Control Committee to authorise a Site Inspection, the person making such a request (whether the Chief Officer Planning and Regulatory Services or an elected Member) must state under which of the above five criteria the Inspection is requested and must also provide supporting justification.
- 3.25 The purpose of a Site Inspection is to view the site and its surroundings and to relate the application proposals to the site. Officers will explain the submitted drawings. Neither the applicant nor any supporters or any objectors should take part. Where an applicant has to be present to allow access to the site, the visiting Members should stand away from him or her (or if necessary, ask the Applicant to stand away) and should not engage in any discussions.
- 3.26 Members should avoid any discussion of the merits of the case on site, on the journey to/from the site, or anywhere other than the Committee meeting.

Rules for Addresses to the Committee at Meetings of Development Control Committee

- 3.27 Addresses to the Committee will be allowed on planning applications being considered by the Development Control Committee. Public speaking will not be permitted on decisions made under the delegated authority of the Chief Officer Planning and Regulatory Services or on Enforcement items or Tree Preservation Orders.
- 3.28 Registering to Speak - Apart from Local Members, those wishing to speak must contact the District Council before 5pm on the day of the meeting at the latest. However at the Chairman's discretion, late registration may be accepted until the start of the meeting. Local Members have until the start of the meeting to register. Only one public speaker against the application and one public speaker supporting the application will be permitted except where the Chief Officer Planning and Regulatory Services or Development

## Agenda Item 4

Control Manager instructs otherwise e.g. for special meetings of the Development Control Committee.<sup>1</sup>

- 3.29 Main Objector - the first objector (e.g. the objector whose request is received first by the Council) will be the public speaker and subsequent objectors will be so advised.
- 3.30 Main Supporter - where an applicant or agent indicates a desire to speak they will be given preference over other supporters.
- 3.31 Local Member(s) - will be able to speak for a maximum of 4 minutes.
- 3.32 Local Council - a representative of the Town or Parish Council(s) in which an application site is situated.
- 3.33 Time Limits - Only the main objector and main supporter may speak, each being allowed 3 minutes. A Local Council representative will be able to speak for a maximum of 3 minutes. A Local Member may speak for a maximum of 4 minutes. After the speaker has spoken there will not normally be an opportunity for any speaker to participate or address any of the issues raised in the subsequent debate. However, at the Chairman's discretion any of the initial speakers or local members may be asked a question of clarification. Any local Member who is a member of the Committee and speaks at the start of the item and has not uttered a prejudicial view will continue to be allowed to debate and vote on the item.
- 3.34 Visual Aids - All speakers are allowed to use visual aids such as plans, drawings, photos etc and these will be displayed on the projector in the meeting room during the speaker's speaking time. No other visual aids may be used. All speakers who wish to have permitted visual aids displayed must provide them to Development Services Team before 5pm at the latest the day before the meeting e.g. if the meeting is to be held on a Thursday then contact must take place before 5pm on the preceding Wednesday.  
*(Written information is not permitted to be used as a "visual aid" by public speakers.)*
- 3.35 Those applications in respect of which members of the public have asked to speak shall automatically be reserved for debate at the Committee.
- 3.36 If a report is withdrawn from the agenda or deferred without the opportunity for a registered public speaker to present their views then the

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<sup>1</sup> As an exception, a Local Member who is also a Member of the Committee may indicate a wish to address the Committee as a Speaker, during the declarations of interest or predetermination, as set out in the Agenda.

public speaker(s) will be given the opportunity to address the Committee when the item is re-presented for decision.

- 3.37 If an application is deferred after addresses to the Committee have taken place, then public speaking will not be permitted when the application is re-presented for decision. If an objector or supporter has not exercised their right to speak in the first instance then their right to speak is waived when the application is re-presented for decision.

#### Training

- 3.38 Members must not participate in decision making at meetings dealing with planning matters unless they have undertaken suitable training, including any training designated by the Cabinet as mandatory.
- 3.39 Members are encouraged to attend Planning training sessions, which will be provided from time to time, as these are designed to extend their knowledge of planning procedures, policies and practice.

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**Governance Committee 21 June 2022 - DRAFT Work Plan (as at 25/05/2022)**

**21 June 2022**

- Development Control Committee Working Group Feedback - Rules For Addresses To Committee

**1 November 2022**

- Report Of The Joint Independent Remuneration Panel
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