

Terms of Reference for the Joint Planning Committee for a Cross-Boundary Planning Application Between Torridge District Council (TDC) and North Devon District Council (NDC)

1. Purpose and Background

1.1 These Terms of Reference (ToR) establish the governance framework for the Joint Planning Committee (the Committee), which is created to address the consideration and determination of a specific planning application reference 1/0470/2025/FULM (TDC) and application reference number 80402 (NDC) (or any replacement application(s) for a similar development at the same location covered by these planning applications).

1.2 The planning application pertains to the installation of a ground mounted solar farm (49.9 MW) and battery energy storage system and associated ancillary works at Land at Bulworthy Farm, Stoney Cross, Alverdiscott, Devon impacting both the Torridge and North Devon Districts. The proposed development necessitates a coordinated approach to planning decisions due to its cross-boundary nature, complexity and our joint Local Plan

1.3 The Committee is created pursuant to the **Local Government Act 1972**, specifically Sections 101 and 102, and is enabled to discharge planning and development functions under Sections 28 and 29 of the **Planning and Compulsory Purchase Act 2004**. These statutes provide the legal foundation for joint committees to perform planning-related responsibilities that transcend individual council boundaries.

1.4 This joint arrangement is established in alignment with the principles of the **National Planning Policy Framework (NPPF)**, including Paragraph 24, which emphasises effective cross-boundary cooperation, sustainable development, and robust stakeholder engagement.

2. Legal Authority and Policy Context

2.1 **Statutory Authority:** The Committee derives its powers from the following legal provisions:

- a. **Local Government Act 1972**, Sections 101 and 102, enabling joint working and delegation of functions;
- b. **Planning and Compulsory Purchase Act 2004**, Sections 28 and 29, permitting collaborative planning and decision-making.

2.2 Planning Framework: The Committees decisions shall align with:

- a) The **National Planning Policy Framework (NPPF)**, including principles of sustainable development, effective cross-boundary collaboration, and environmental stewardship;
- b) The **Local Development Plans** of Torridge and North Devon, ensuring compatibility with approved local policies;
- c) Established statutory requirements under the **Town and Country Planning Act 1990** and other relevant planning legislation.

2.3 The Committee shall also ensure adherence to the Nolan Principles of Public Life in the conduct of its duties.

3. Scope, Functions, and Key Objectives

3.1 The primary responsibilities of the Committee are:

- a. To review and determine the specified planning application;
- b. To coordinate decision-making processes to ensure consistency and fairness across both districts;
- c. To consult with statutory bodies, non-statutory stakeholders, and members of the public in accordance with prescribed legislative obligations and NPPF principles;
- d. To assess the planning application in alignment with national and local policy frameworks, including environmental, housing, and transport considerations.

3.2 The Committee's authority shall be limited to matters directly related to the specified planning application unless otherwise agreed upon by both councils.

3.3 The Committee shall ensure that all decisions are made within statutory timeframes as outlined in the **Town and Country Planning Act 1990**.

4. Membership and Composition

4.1 Voting Members:

- a. The Committee shall comprise 18 voting members:
 - 9 members appointed by North Devon District Council
 - 9 members appointed by Torridge District Council
 - Voting members shall be elected representatives of their respective councils plans committees and shall be allocated in accordance with political balance rules.

- Each member of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant constituent council but a member shall cease to be a member of the Joint Committee if he or she ceases to be a member of the constituent council appointing him or her as a member of the Joint Committee or if they cease to be a member the Planning Committee at their respective Council.
- Any casual vacancies howsoever arising shall be filled by the constituent council from which the vacancy arises by notice in writing sent to the lead council for governance and secretarial support services

4.2 Substitute Members: Each council may appoint substitute members, provided such substitute members are from an appointed and trained reserve list held by each respective council, are from the same political group as the member they are replacing and that formal notification is issued in writing to the Chairperson prior to the relevant meeting.

4.3 Chairperson and Vice-Chairperson:

- a) The Chairperson shall be elected by the Committee
- b) The position of Chairperson shall be elected from North Devon District Council.
- c) The position of Vice-Chairperson shall be elected from Torridge District Council.

4.4 The membership shall reflect a commitment to impartiality and representational fairness, as required by the governance standards of local authorities.

5. Governance and Decision-Making

5.1 Quorum:

- a. The quorum for any meeting of the Committee shall be two-thirds of voting members, with at least one representative from each council present.

5.2 Voting:

- a) Each member of the Committee (including any substitute members appointed in line with clause 4.2 above) is entitled to one vote.
- b) Decisions shall be made by a majority of those present and voting.
- c) In the event of a tied vote, the Chairperson shall exercise a casting vote but, before exercising this, the chairperson shall consider whether it is appropriate to defer the matter to a further meeting of the Joint Committee.
- d) If a Member arrives at a meeting during the consideration of an item or leaves a meeting at any time during the consideration of an item they shall not

propose or second any motion or amendment or cast a vote but, for the avoidance of doubt, may still participate in the debate.

- e) Any member of the Joint Committee may request the Joint Committee to record the votes of individual members of the Joint Committee on a matter for decision.

5.3 Generally:

- a. Each of the constituent councils may remove any of its nominated members or substitute members of the Joint Committee and appoint a different member or substitute to the Joint Committee by giving written notice to the lead authority for governance and secretarial support services, subject to the requirement that they shall be members of their respective Planning Committee.
- b. A member, when speaking, shall address the chairperson. If two or more members wish to speak, the chairperson shall call on one to speak. While a member is speaking all other members shall remain silent.
- c. A member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order.
- d. Only one amendment to a proposal may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of, providing the chairperson may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Joint Committee's business. For the avoidance of doubt an amendment which opposes a motion to grant or refuse a planning application is deemed to be a valid amendment
- e. If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion, as amended, shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
- f. When a motion is under debate by the Joint Committee no other motion shall be moved except the following:
 - i. to amend the motion;
 - ii. to adjourn the meeting;
 - iii. to adjourn the debate;
 - iv. to proceed to the next business;
 - v. that the question may now be put;
 - vi. that a member shall not be further heard;
 - vii. by the chairperson, that a member leave the meeting;
 - viii. a motion under section 100(A)(4) of the Local Government Act 1972 to exclude the public; or
 - ix. to postpone consideration on an item.
- g. A member may move without comment at the conclusion of a speech of another member, "That the Committee proceed to the next business", "That the question may now be put", "That the debate is now adjourned", or "That the Committee now adjourn", on the seconding of which the chair shall proceed as follows (and their ruling shall not be open for discussion):

- i. on a motion to proceed to next business: unless in his/her opinion the matter before the meeting has been insufficiently discussed to put to the vote, the motion to proceed to next business;
 - ii. on a motion that the question may now be put: unless in his/her opinion the matter before the meeting has been insufficiently discussed he/she shall first put to the vote the motion that the question may now be put; or
 - iii. on a motion to adjourn the debate or meeting: if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion put the adjournment motion to the vote.
- h. In accordance with the requirements of the 1972 Act, the public or press must be excluded from a meeting by resolution of the Joint Committee during an item of business if that item includes:
 - i. confidential information, as defined in section 100A(3) of the 1972 Act; or
 - ii. exempt information, as defined in section 100I of the 1972 Act.

5.4 **Code of Conduct:**

- a. Each member of the Joint Committee shall comply with the Code of Conduct of their respective council when acting as a member of the Joint Committee, in addition to this each member must comply with the following insofar as it does not conflict with such Code of Conduct:
 - i. Planning issues must be assessed fairly and on their planning merits. Members of the Joint Committee need to avoid any appearance of bias or having 'predetermined' views when making a decision on a planning application or policy.
 - ii. Clearly expressing an intention to vote in a particular way before a meeting (predetermination), including in other committee meetings or at parish council meetings, is indicative of a 'closed mind' approach and may leave the grant of planning permission vulnerable to challenge by Judicial Review.
 - iii. Predisposition is where a member may have a pre-existing opinion or attitude about the matter under discussion, but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting. Section 25 of the Localism Act 2011 (as amended) clarifies that a member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicates what view they might take in relation to any particular matter.
 - iv. A member in the position as outlined in paragraph (iii) above will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the member was biased.
 - v. If a member of the Joint Committee has predetermined their position, they should withdraw from being a member of the decision making body for that matter. This applies to any member

of the Joint Committee who wants to speak for or against a proposal as a campaigner.

- vi. When being lobbied by those affected by a planning decision being considered by the Joint Committee:
 - 1. members should try to take care expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all the application materials and arguments for and against the development proposal; and
 - 2. members should restrict themselves to giving advice about the process and what can and can't be taken into account. Members can raise issues which have been raised by their constituents with officers.
- vii. If any member of either council, whether or not a committee member, speaks on behalf of a lobby group at the Joint Committee, they should withdraw from the meeting once any public or ward member speaking opportunities have been completed.
- viii. Lobbying can take many forms and where there are concerns, advice should immediately be sought from their council's Monitoring Officer, although it must be reiterated that compliance with this paragraph (viii) is ultimately the responsibility of the individual councillor.
- ix. Planning decisions cannot be made on a party political basis in response to lobbying.
- x. Members of Joint Committee should in general avoid organising support for or against the planning application under consideration, and avoid lobbying other councillors
- xi. Members of the Joint Committee should not put pressure on officers for a particular recommendation and should not do anything which compromises, or is likely to compromise, officers' impartiality or professional integrity.
- xii. Members of the Joint Committee should be cautious about accepting gifts and hospitality in general and especially where offered by lobbyists. In this regard members must comply with their respective council's Code of Conduct.
- xiii. Section 25 of the Localism Act 2011, which establishes prior indications of view of a matter not to amount to predetermination, has given members much more freedom to engage in discussions before making a decision however such discussions should ensure:
 - 1. Clarity at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are provisional.
 - 2. Any advice passed on is consistent with that provided by officers and based upon the development plan and material planning considerations.
 - 3. That members avoid giving separate advice on the development plan or other material planning considerations, as they may not be aware of all the issues at an early stage.

Members should not become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the position is co-ordinated.

4. A commitment is made that care will be taken to ensure that advice is impartial.
- xiv. Officer reports on planning applications must have regard to the following:
1. Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
 2. Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the NPPF, any local finance considerations, and any other material planning considerations.
 3. Reports should have a written recommendation for a decision to be made.
 4. Reports should contain, where relevant, technical appraisals which clearly justify the recommendation.
 5. If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.
 6. Any oral updates or changes to the report should be recorded.
- xv. Appropriate interventions by the legal officer at the committee meeting itself might be needed in order to correct any misconceptions on specific issues raised in an officer report.
- xvi. In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the relevant local planning authority in writing.
- xvii. New documents should not be circulated to the Joint Committee as councillors may not be able to give proper consideration to the new information, and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. Late information might lead to a deferral. This should be made clear to those who intend to speak.
- xviii. Messages should never be passed to individual committee members, either from other councillors or from the public.
- xix. The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990). This applies to all planning decisions.
- xx. Any reasons for refusal must be justified against the development plan and other material considerations. The Joint Committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non-material

considerations which might cause local controversy, will rarely satisfy the relevant tests.

- xxi. If a councillor is concerned about an officer's recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the Joint Committee meeting.
- xxii. Where a councillor wishes to move or moves a motion which differs from the officer's recommendation consideration should be given to adjourning the committee meeting for a few minutes for the reasons for such a motion to be discussed.
- xxiii. The officer should be given an opportunity to explain the implications of any contrary decision, including an assessment of a likely appeal outcome based on policies set out in the development plan and the NPPF, and chances of a successful award of costs against the local authority, should one be made.
- xxiv. Where there is concern about the validity of reasons, consideration should be given to deferring to another meeting to have the reasons tested and discussed.
- xxv. If the Joint Committee makes a decision contrary to an officer's recommendation (whether for approval or refusal or changes to conditions or section 106 planning obligations) then a detailed minute of the committee's reasons, which should set in the context of the development plan or the NPPF, should be made and a copy placed on the application file.
- xxvi. All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departures' from the development plan. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- xxvii. Site visits:
 - 1. Should only be used where the benefit is clear and substantial in light of (5) below. Officers will have visited the site and assessed the scheme against policies and material considerations already
 - 2. The purpose, format and conduct should be clear at the outset and adhered to throughout the visit
 - 3. Can be 'triggered' by a request from the ward councillor but the 'substantial benefit' test (at (1) above) should still apply
 - 4. A record should be kept of the reasons why a site visit is called, this includes where the Joint Committee defer consideration of an application for a site inspection.
 - 5. A site visit is only likely to be necessary if (i) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers; (ii) the comments of the applicant and objectors cannot be expressed adequately in writing; and/or (iii) the proposal is particularly contentious.
- xxviii. Site visits are for observing the site and gaining a better understanding of the issues. Visits made by Joint Committee members, with officer assistance, are normally the most fair and

equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.

- xxix. Once a member becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a member is only entitled to view the site from public vantage points and they have no individual rights to enter private property.

6. Meeting Procedures

6.1 Meeting Schedule:

- a) The Committee shall meet as necessary to meet statutory or application-specific deadlines.
- b) The order of business shall be indicated in the agenda for the meeting
- c) Meetings may be held in person or virtually, as agreed by the Committee, provided this complies with relevant regulations.

6.2 Public Transparency: Meetings shall comply with the requirements of the **Local Government Act 1972**, including provisions for public access, the publication of agendas, and the availability of meeting minutes.

6.3 Supporting Documentation: All meeting notices, agendas, and accompanying documentation shall be circulated to members no fewer than five clear working days before each meeting.

6.4 Public Consultation: The Committee shall ensure that public consultation events are held to gather stakeholder input, and all feedback shall be documented and considered in the decision-making process.

6.5 Minutes: The lead constituent council for governance and secretarial support services shall arrange for written minutes to be taken of each meeting of the Joint Committee and, given the temporary nature of this Committee, shall arrange for their approval by circulating the draft minutes to committee members for their review and written approval following which they shall be signed by the Chair.

6.6 Representations at Committee: A member of the public can speak for three minutes when addressing the Committee. This applies to each public speaker, whether they are supporting or opposing a planning application on the agenda. The Committee will allow up to six supporters and six objectors per application, as well as the applicant, agent, and a representative of the Parish Council(s), to attend and address the Committee. If a member of the public prefers to submit a written statement rather than speak in person, the statement will be read aloud by an officer, with a maximum length of 400 words; this written submission counts within the total number of speakers permitted. A public speaking slot must be booked by 12 noon

on the Monday prior to the Committee meeting.

7. Financial and Administrative Arrangements

7.1 The operational costs of the Committee, including administrative and technical support, shall be shared proportionately between the two councils.

7.2 Torridge District Council shall act as the lead administrative authority for the Committee and shall provide secretarial and legal support as necessary.

8. Amendment, Review, and Dissolution

8.1 **Amendment and Review:** These ToR shall be reviewed upon the request of either Torridge District Council or North Devon District Council. Amendments shall require the agreement of both councils.

8.2 **Dissolution:** The Committee shall be dissolved:

- a. Upon completion of its functions relating to the specified planning application;
or
- b. By mutual agreement of both councils.

Any unresolved matters at the time of dissolution shall revert to the respective constituent councils for further action.

Signed on behalf of:

Torridge District Council

Name: _____

Position: _____

Date: _____

North Devon District Council

Name: _____

Position: _____

Date: _____