

## CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

### Part 4K – Planning and Planning Sub-Committee Procedure Rules

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#### 1 INTRODUCTION

- 1.1 These Rules apply to all meetings of the Planning Committee and the Planning Sub-Committee in relation to the determination of planning applications and any other business dealt with at either of these Committees. Reference to Committee in these Rules is a reference to both or either of these Committees. Likewise reference to a Planning Committee Member also encompasses reference to a Planning Sub-Committee Member. Reference to the Chair is a reference to the Chair of both or either of these Committees.
- 1.2 The determination of planning applications is a formal statutory administrative process involving the application of national, regional and local planning policies that takes place within a legislative framework. Planning decisions can be appealed by unsuccessful applicants and challenged by way of judicial review by aggrieved parties. Complaints about maladministration and injustice can also be made to the Local Government Ombudsman.
- 1.3 In order to mitigate these risks, it is vital that those involved in the determination of planning applications and particularly officers and Members, at all times act reasonably and fairly to applicants, supporters and objectors. These rules are designed to help ensure this is achieved but they should not be read in isolation; Members need to also have regard to the Planning Code of Good Practice to be found at Part 5D of this Constitution. Both these Rules and the Planning Code of Good Practice are subordinate to the requirements set out in the Members' Code of Conduct and nothing in these Rules or the Code shall be read as implying greater obligations on Members than as set out in the Members' Code of Conduct in Part 5I of this Constitution.

## 2 COMMITTEE CONSIDERATION CRITERIA

- 2.1 Part 3 of the Constitution (Responsibilities for Functions: Planning Committee and Planning Sub-Committee) sets out the types of planning application that may be considered by these Committees. Part 4K of the Constitution and Rule 2 (Committee Consideration Criteria) sets out the circumstances where such an application will be referred to Committee for decision.
- 2.2 The Timescales, General Requirements and Criteria set out here (Rule 2 Committee Consideration Criteria) will be applied in determining whether any Representations received in respect of an application that may be considered by Committee would require that application to be determined by that Committee rather than dealt with under officer's delegated powers. The term Representation(s) also includes Petition(s).
- 2.3 Rule 2 contains:
- **Timescales:** within which all Representations must be with the Development Management service
  - **General Requirements:** that all Representations must comply with
  - **Criteria:** that apply to the Representations from specific people or bodies such as the Chair, a Member for the ~~ward~~Ward within which the application site is situated or adjoins (Ward Member), the Croydon member of the Greater London Assembly (GLA Member), the Member of Parliament for the constituency within which the application site is situated or adjoins (MP) and Resident Associations ~~and Conservation Area Advisory Panels (RA/CAAP (RA))~~ plus Representations from other people or bodies
- 2.4 For probity reasons the Timescales, General Requirements and Criteria set out in Rule 2 must be adhered to. The decision of the Director of Planning and Strategic Transport will be final in determining whether the Timescales, General Requirements or Criteria are met.
- 2.5 Any Representation that does not meet the Timescales, General Requirements and Criteria will therefore not be a factor in deciding whether the application will be considered by Committee. Such Representations will still however be considered by the case officer in finalising their report and recommendation, provided he/she receives the Representation before submitting their report for authorisation.
- 2.6 Nothing in Rule 2 interferes with the absolute right of the Director of Planning and Strategic Transport to refer an application or planning matter to Committee as prescribed by Part 3 of the Constitution.
- 2.7 If an organisation or individual (including a Ward Member, GLA Member or MP) wishes to address the relevant Committee, that is dealt with under the Public Speaking Procedure (Rule 3).

## Timescales

### Statutory notification period

- 2.8 All applications are publicised via the display of one or more site notices and certain applications are advertised in a local paper. However, it does not matter how someone gets to hear about a proposal, anyone can submit Representations to the Development Management service. Representations on applications must be made in writing (letter or email). The time limit for doing this is specified on the [site](#) notice or advert. The statutory period is 21 days.
- 2.9 Where amended plans for an application have been accepted by the Council and it is necessary to ~~republicisere-publicise~~ them, the Council will display a new site notice on different coloured paper to the original so that local people can distinguish it.
- 2.10 Amended plans are often negotiated in response to Representations. The Council may consider that an amendment it receives has overcome the Representations previously made so it is therefore important that local people consider whether they need to make further Representations as follows.
- If the amendments do overcome their concerns, they may write to confirm this, but the General Requirements below (paragraph 2.15) are designed to take account of such circumstances, so people do not have to take any further action.
  - If someone has already made a Representation and the amendments do not overcome their concerns, they need to make further Representations to that effect.
  - If the amendments raise new concerns, such further Representations should also be made.

### Chair, Ward and GLA Member timescales

- 2.11 All Members will be notified by email about planning applications in their ward. The Chair and the Croydon Member for the Greater London Assembly will be notified by email about planning applications in Croydon.
- 2.12 If the Chair, a Ward Member or the GLA Member wishes to make Representations on the application they must respond by replying to the notification email within ~~the deadline specified in that email, which will be at least 21 days from the date of that email~~ 28 days. -In circumstances where the notification period referred to in paragraph 2.8 is more than 28 days from the date of the email, the deadline for making Representations which result in a referral will be the end of the period contained in the site notice.
- 2.13 Where the Chair, a Ward Member or the GLA Member (as appropriate) receives an additional notification email informing them about amendments to an application, the deadline for making further Representations by replying to the additional email notification ~~is specified in that email, which will be at least 14 days of the date of that email. If~~ within 14 days. In circumstances where the

period for the public to make Representations exceeds 14 days from the date of the additional email notification, the deadline for making further Representation will be the end of the period contained in the relevant site notice. f the Member indicated in the initial notification that they wished the application to be referred to Committee for consideration and the amendment overcomes their concerns, they should respond to the email explicitly withdrawing their wish for the Committee to consider the application. See paragraph 2.10 above for additional advice on amendments.

- 2.14 Representations on a planning application should not be sent to any email address other than the one on the notification email as other email addresses may not be monitored (e.g. the officer may be on leave) and the email may therefore not be actioned.

### **General Requirements**

- 2.15 In Rule 2, a Representation is a letter or an email that meets all the following requirements:
- It is in response to an application that has been publicised by the Council.
  - It raises planning considerations that are material and related to the application.
  - Any material planning objection raised cannot be overcome by scheme amendment, imposition of planning conditions or securing planning obligations.
- 2.16 Identical pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (i.e. each letter potentially being a single signature on a petition) for the purposes of deciding whether an application will be referred to Committee. See paragraphs 2.29 to 2.31 below for the Criteria for Petitions.

### **Committee Referral Criteria**

#### Chair

- 2.17 An application may be reported to Committee where the Chair has indicated that he/she wishes the application to be referred to Committee for consideration provided that indication is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.11 to 2.14 above).

#### Ward Members

- 2.18 An application may be reported to Committee where the Member for the ward within which the application site is situated or adjoins (Ward Member) has made a Representation that additionally meets all the following Criteria:
- It is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.11 to 2.14 above).

- The application is within, partly within or adjoining the Member's ward.
- The Ward Member has stated that they either object to or support the application and given their reason(s).
- The Ward Member has additionally clearly stated that they wish the application to be referred to Committee for consideration.
- The Ward Member has attended pre-arranged training on the planning application referral arrangements, development presentation protocols and the management of breaches of planning control (to be arranged from time to time).

2.19 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is either for approval and the Ward Member has objected to the application or for refusal and the Ward Member has supported the application.

### Greater London Assembly Member

2.20 An application may be reported to Committee where the Croydon Member of the Greater London Assembly (GLA Member) has made a Representation that additionally meets all the following Criteria:

- It is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.11 to 2.14 above).
- It is an application for planning permission that is referable to the Mayor of London pursuant to the Town and Country Planning (Mayor of London) Order.
- The GLA Member has stated that they either object to or support the application and given their reason(s).
- The GLA Member has additionally clearly stated that they wish the application to be referred to Committee for consideration.

2.21 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is either for approval and the GLA Member has objected to the application or for refusal and the GLA Member has supported the application.

### Member of Parliament

2.22 An application may be reported to Committee where the Member of Parliament (MP) for the constituency within which the application site is situated or adjoins has made a Representation that additionally meets all the following Criteria:

- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
- It is an application for planning permission that is a Major Development or larger as defined by the Department for Communities and Local Government.
- The application is within, partly within or adjoining the MP's constituency.

- The MP has stated that they either object to or support the application and given their reason(s).
- The MP has additionally clearly stated that they wish the application to be referred to Committee for consideration.

2.23 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is either for approval and the MP has objected to the application or for refusal and the MP has supported the application.

Criteria for Resident Associations (RA) and Conservation Area Advisory Panels (CAAP)

2.24 To benefit from the provisions in these Criteria, a RA will need to be registered with the Development Management service. To be registered the RA will need to supply a copy of its written constitution and that document would need to demonstrate that:

- It represents an area within the borough of Croydon that contains at least 50 residential properties.
- It holds regular elections for association officers.

2.25 An application may be reported to Committee where the RA/CAAP has made Representations that additionally meet all the following Criteria:

- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
- The application is within, partly within or adjoining the area that the RA/CAAP covers.
- The RA/CAAP has stated that they object to the application and given their reason(s).
- The RA/CAAP has additionally clearly indicated that they wish the application to be referred to Committee for consideration so that they can address the Committee on their concerns.

2.26 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.

2.27 The right to refer applications under paragraphs 2.18 to 2.25 does not extend to minor material amendments or non-material amendments to existing planning permissions dealt with under section 73 or 96A96A of the the Town and Country Planning Act 1990 (as amended) respectively.

Other Representations

2.27.28 An application may be reported to Committee where Representations have been received that additionally meet all the following Criteria:

- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).

- It is from a person who lives at or operates from an address which is within the London Borough of Croydon.
- The person has stated that they object to the application and given their reason(s).
- At least 12 such Representations have been received from individual persons for each application.

2.282.29 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.

### Petitions

2.292.30 An application may be reported to Committee where one or more petitions (including pro-forma letters – paragraph 2.16 above) that meet the General Requirements for a Representation (paragraph 2.15 above) have been received that additionally meet all the following Criteria:

- Each Petition is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
- Each Petition is from a person who lives at or operates from an address which is within the London Borough of Croydon.
- Each Petition objects to the application and contains the reason(s) for this.
- All such Petitions contain a total of at least 20 signatures with clearly readable and bona fide names and addresses from within the Borough of Croydon.

2.302.31 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.

2.312.32 Where such petition(s) (including pro-forma letters – paragraph 2.16 above) contain less than 20 such signatories, they will collectively be treated as forming a single Representation for the purposes of deciding whether an application will be referred to Committee.

## **3 PUBLIC SPEAKING PROCEDURE**

3.1 For applications for planning permission for the following development types, a speaking slot shall be a maximum of five minutes each:

- a residential development containing 200 or more new dwellings or, where the number of dwellings is not given, the site area is 4 hectares or more; or
- the erection of a building or buildings with a gross floor space of 10,000 square metres or more or, where the floor space is not given, the site area is 2 hectares or more.

3.2 For all other items, a speaking slot shall be a maximum of three minutes each.

- 3.3 Subject always to the provisions of para 6.2, for each planning application there are up to five separate speaking slots in the following order, allocated to:
1. Objectors
  2. The applicant or his/her agent/representative/supporters – hereinafter referred to as the Applicant
  3. The Member of Parliament for the constituency within which the application site is situated where they have clearly indicated that they wish to address the Committee in accordance with the Committee ConsiderationReferral Criteria (Rule 2.22) – hereinafter referred to as the MP
  4. The Member of the Greater London Assembly for the constituency within which the application site is situated where they have clearly indicated that they wish to address the Committee in accordance with the Committee ConsiderationReferral Criteria (Rule 2.20) – hereinafter referred to as the GLA Member
  5. A Member for the ward within which the application site is situated or adjoins who has clearly indicated that they wish the application to be referred to Committee for consideration in accordance with the Committee ConsiderationReferral Criteria (Rule 2.18) – hereinafter referred to as a Ward Member or (b) has clearly indicated that they wish to address the Committee regarding a major application which has automatically been referred to Committee
- 3.4 Where a planning application is reported on the “Planning Applications for Decision” part of the agenda, all of the individuals and organisations who have expressed views (by letter or email) on the application will be sent a letter/email that informs them that the application will be considered by Committee. The applicant (or his/her agent) will be sent a similar letter/email. The Ward Member, GLA Member and MP (where appropriate) will also be sent such a letter/email. The letter/email will also explain the provisions regarding public speaking.
- 3.5 Requests to address Committee will not be accepted prior to the publication of the agenda.

### **Notification**

- 3.6 Any Objector or Applicant who wishes to address Committee must notify the Democratic Services Manager by 4pm on the Tuesday prior to the day of the meeting. Email or telephone should be used for this purpose. This communication should provide the name and contact details (email address and/or phone number) of the intended speaker so that changes in arrangements can be communicated. In addition, if the parties agree, contact details will be shared so that where more than one person has registered to speak, contact can be made to resolve either who will address the Committee or how they will divide up the allocated speaking slot.
- 3.7 If a public speaker needs special arrangements (such as an interpreter) this must be brought to the attention of the Democratic Services Manager when



notifying him/her of their wish to speak so that arrangements can be put in place.

### **Registration**

3.8 Subject always to the provisions of para 6.2, on the night of the Committee meeting:

- Objectors and Applicants who have notified the Democratic Services Manager that they wish to address the Committee in accordance with paragraph 3.7;
- A Ward Member, GLA Member or MP who have clearly indicated that they wish to address the Committee in accordance with the Committee Consideration Criteria (Rule 2);

must register their attendance at the Town Hall with the Democratic Services representative in attendance at the meeting at least 15 minutes before the meeting starts.

3.9 Where more than one Objector has registered to speak and the arrangements have not been resolved in advance, the Democratic Services Manager will inform the parties involved as they register so that they can decide either who will address the Committee or how they will divide up the allocated speaking slot. Objectors are expected to come to an agreement between themselves on this. Where Objectors cannot come to an agreement, the chair will be notified of this through the Democratic Services Manager and the chair will decide who will be accorded the right to speak. Preference will normally be given to those who are potentially most affected by the planning application and particularly those closest to the application site. The chair may take advice from officers in making this decision. In order to ensure the most efficient progress of Committee business on the evening, the decision of the chair will be final and not be the subject of further debate, including in the Committee.

3.10 If more than one Ward Member or MP indicates that they wish to speak, they will share the speaking slot equally, unless they agree a different distribution of the time.

3.11 If a Ward Member wishes to speak but is unable to attend the Committee, they may nominate a substitute Member to address the Committee on their behalf.

### **Speaking**

3.12 All those involved in public speaking are restricted to an oral presentation only. The officers' slide presentation is therefore not available for use by public speakers.

3.13 The distribution of additional material or information to Members of the Committee is not permitted once the meeting starts. If a speaker, or any other member of the public, wishes to bring material to the Committee's attention

they need to either supply it to the Development Management service, if it is written material, by noon on the day of Committee, to include in the Addendum Report (see paragraphs 5.6 to 5.11 below for procedures, limitations and deadlines) or otherwise send it direct to Members before the meeting.

- 3.14 Following the completion of a speaker's address to the Committee, that speaker shall take no further part in the proceedings of the meeting unless permitted to do so by the chair of the Committee.

### **MP, GLA Member and Ward Members**

- 3.15 An MP, GLA Member or Ward Member may address the Committee in accordance with the Procedures set out here (Rule 3 Public Speaking Procedure), but must additionally:

- declare, before making their speech, details of any material contact with the applicant, agent, adviser, neighbour, objector or other interested party and whether or not the speech is made on behalf of such person(s) or any other particular interest;
- sit separately from the Committee Members, so as to demonstrate clearly that he/she is not taking part in the discussion, consideration or vote; and
- not communicate in any way with Members of the Committee or pass papers or documents to them during the meeting.

In relation to Ward Members:

- be aware that if they have a disclosable pecuniary interest, they may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary interest if they have been granted a dispensation for this purpose.

### **Committee Member wishing to speak as a Ward Members**

- 3.16 A Ward Member, who is also a Member of the determining Committee, may address the Committee in accordance with Rule 3 (Public Speaking Procedure) but, where they do so, they cannot take part in the debate or vote on the application they have referred. They may address the Committee on their referral in accordance with the above procedures provided they do not have a disclosable pecuniary interest in the matter. Where the Member has a disclosable pecuniary interest, the Member may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary interest if they have been granted a dispensation for this purpose.

### **Chair's discretion**

- 3.17 At the discretion of the chair, such as in the interests of natural justice or in exceptional circumstances, the public speaking procedures may be varied. The reasons for any such variation shall be recorded in the minutes. The number of objectors or supporters would not, of itself, be a factor. If changes

are made to the speaking times, the Applicant will be offered the same time to speak as Objectors.

## 4 FORMAT OF COMMITTEE AGENDA

4.1 The Committee's agenda may contain the following three sections for planning reports:

- **Planning applications for decision:** these items attract public speaking rights as detailed above.
- **Other planning matters:** non-application matters that require Committee consideration (such as an Article 4 Direction, policy papers or a consultation from government) or reports that are for information only. These items do not normally attract public speaking rights, other than at the chair's discretion.
- **Development presentations:** to enable the Committee to receive presentations on proposed developments, including when they are at the pre-application stage. These items do not normally attract public speaking rights, other than at the chair's discretion.

## 5 REPORTS

5.1 Each planning application for decision is the subject of a written report with an officer recommendation. Reports will be produced in a standard form provided by the Director of Planning and Strategic Transport, and will identify and analyse the material considerations, of which the Committee will need to take account when considering the application on the planning merits

5.2 In addition to the written report, illustrative material will usually be presented at the meeting to explain the scheme. The planning files will also be available for inspection at the meeting by Members of the Committee.

### Recommendations

5.3 The recommendations in the reports to Committee do not set out the full wording of planning conditions, reasons for refusal, informatives and planning obligations, but are a summary of them. There are two reasons for this:

- it communicates the details of the recommended decision more clearly to Members than many pages of detailed conditions or grounds; and
- there can sometimes be a delay before a decision is issued (such as waiting for the signing of a legal agreement or views from the Mayor of London and/or the National Planning Case Unit) and something may arise which necessitates an amendment, a deletion or an addition.

5.4 Delegated powers are therefore given to the Director of Planning and Strategic Transport (Responsibility for Functions at Part 3 of the Constitution) to communicate the detailed wording to applicants. In addition, where the wording of a condition/-ground/informative/obligation has been amended, a new condition/ground/-informative/obligation introduced or an existing condition/ground/informative/-obligation deleted either at the meeting by the

Committee or subsequent to the meeting by the Director, the Director will be responsible for finalising the wording. This obviates the need for further reference to Committee and delay to the process.

- 5.5 The exercise of this delegated power by the Director is limited to circumstances where the change(s) could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the committee.

### **Addendum Report**

- 5.6 It is common for material (such as late representations) to be received by the Development Management service after the close of the agenda. Such material will be placed on the public planning file along with all the other papers for the application, subject only to any public exclusion restrictions.
- 5.7 Where this material needs to be brought to the attention of the Committee, so that it can be taken into account, it will be presented in written form in the addendum report. It will comprise a summary of whatever has been raised, in the same way as representations are summarised in the main Committee report.
- 5.8 The Development Management service will email the addendum report to Planning Committee Councillors as soon as it is ready and make hard copies available before the meeting commences.
- 5.9 The practicality of producing such a report means there has to be a cut-off point for the receipt of late material by the Development Management service, which is noon on the day of the meeting. Generally material received after this time will not be reported to the Committee. The Director of Planning and Strategic Transport has an absolute discretion in this regard.
- 5.10 Material must not be distributed to Committee Members by members of the public (including public speakers) or other Members of the Council during the course of the meeting. The distribution of such material should be done in advance of the meeting in accordance with 5.9 above.
- 5.11 The points raised in representations about a particular application, which are received prior to the cut-off point (paragraph 5.9 above) are summarised either in the main Committee report or in the addendum report. Copies of these representations are available for inspection at the meeting by Members of the Committee.

## **6 ORDER OF PROCEEDINGS**

~~6.1~~ — Except as otherwise stated on the agenda, generally meetings take place at the Town Hall in Katharine Street (CR0 1NX). The time the meeting is expected to begin will be stated on the agenda papers.

~~6.26.1~~ Where any item is on the agenda only because it has been referred by a Ward Member, GLA Member, MP, or Resident Association ~~or Conservation~~

~~Area Advisory Panel~~, and none of the referring person(s)/organisation(s) or their representative(s) have registered their attendance at the Town Hall in accordance with paragraph 3.8, and notwithstanding the fact that other parties may have also registered to speak, the item will revert to the Director of Planning and Strategic Transport to deal with under delegated powers and not be considered by the Committee.

~~6.36.2~~ At the discretion of the chair, the agenda may be re-ordered at the meeting.

### **Planning application for decision**

### **~~THE~~6.4THE PROCEDURE FOR CONSIDERING EACH APPLICATION SHALL BE AS FOLLOWS:**

- the Director of Planning and Strategic Transport, or his/her representative, will introduce the development the subject of the application;
- through the chair, Committee Members may ask questions of clarification;
- public speaking in accordance with Rule 3 (Public Speaking Procedure);
- the Director of Planning and Strategic Transport, or his/her representative, will present the report and introduce the main issues; and
- the Committee will consider the item and reach a decision.

### **Other planning matters**

~~6.46.3~~ The procedure for considering each item shall be as follows:

- the Director of Planning and Strategic Transport, or his/her representative, will present the report and introduce the main issues;
- through the chair, Committee Members may ask questions of clarification; and
- the Committee will consider the item and reach a decision.

### **Development presentations**

~~6.56.4~~ The procedure for considering each item shall be as follows:

- the developer will present their scheme for no longer than 15 minutes unless the Chair, exercising his/her discretion, has allowed a longer period; and
- through the chair, Committee Members may ask questions.
- At the end of the questioning session a Ward Councillor (who is not a member of the Planning Committee) may address the Planning Committee for up to 5 minutes to present a local viewpoint on the development presentation. Ward Councillors within whose ward the emerging development is proposed will be contacted by the Development Management service by email and the Ward Councillor will be required to contact the Democratic Services Manager by 4pm on the Tuesday before the Committee meeting to advise whether he/she is attending. Where more than one Ward Councillor wishes to address the Planning Committee, the 5 minute slot will be shared. Only one Ward Councillor will be allowed to address the Committee.

- At the end of this process, the Chair will summarise the issues, points and questions raised

### **Other procedural issues**

- ~~6.66.5~~ Where a decision is made on an agenda item, in order to be able to vote a Committee Member must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking.
- ~~6.76.6~~ The minutes of the meeting will record the Members and officers present at the meeting and record any disclosures of interest made by Members or officers. For each item the minutes will record the identity of any public speakers and the decision.
- ~~6.86.7~~ Meetings of the Committee are subject to a guillotine of 10.00pm. After that time, any item on the agenda that has not started to be considered by the Committee is delegated to the Director of Planning and Strategic Transport to determine along the lines set out in the Committee report, unless the Committee has already voted (on a two thirds majority) to defer or adjourn the non-determined item earlier in the meeting.

## **7 DECISION MAKING**

7.1 In making a decision on a planning application a Committee Member must:

- Come to meetings with an open mind.
- Comply with these Rules.
- Not allow anyone (except officers, other Committee Members and public speakers when they are addressing the Committee) to communicate with them during the Committee's proceedings (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact before the meeting starts.
- Consider the advice that planning, legal or other officers give the Committee in respect of the recommendation or any proposed amendment to it.
- Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision.
- Come to their decision only after due consideration of all of the information reasonably required to base a decision upon. This will include the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If they feel there is insufficient time to digest new information or that there is insufficient information before them, then they should seek an adjournment to address these concerns.
- Not vote on a proposal unless they have been present to hear the entire debate, including the officers' introduction and any public speaking.
- Make sure that if they are proposing, seconding or supporting a decision contrary to the officer's recommendation or the Development Plan, that

they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other officers give them. Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge.

- 7.2 The Council is expected to make a decision on all applications within statutory timescales. Whilst this may not always be possible, particularly for applications that are to be considered by Committee, applications are always included on the agenda of the first available Committee after completion of the officer's report so that a decision can be taken in the shortest possible time. For this reason, Members should avoid requests for officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.

## **8 VOTING PROCEDURES**

- 8.1 The chair will bring the Committee to a vote when he/she considers that there has been sufficient debate of an item.
- 8.2 For any motion to be successful there needs to be a majority vote in favour of that motion. In the event of a deadlock (ie equality of votes) the chair may exercise his/her casting vote. This can be done irrespective of whether or not the chair has already voted on that motion.

### **When There Are Two Motions**

- 8.3 If there are two motions before the Committee, each motion needs to be considered separately. When a motion has been moved and seconded, it becomes a complete motion. The motion which is completed first should be considered first.
- 8.4 If the first motion is successful (ie the vote is for it) the second motion automatically falls.
- 8.5 If the first motion is unsuccessful (ie the vote is against it) it falls and is thereby extinguished. Members then move to voting on the second motion.
- 8.6 To enable officers to give the Committee the best advice and to allow the business to run efficiently, it is preferable for the recommendation set out in the report to be moved and voted on first (unless a motion is made and seconded to defer or adjourn consideration of a particular item, for example for a site visit or further information/advice).
- 8.7 Amendments to the recommendation (such as an additional condition) may be made in the normal manner (as prescribed in the Non-Executive Committee Procedure Rules part 4 of the constitution).

## **Officer's Advice**

- 8.8 If the recommendation is not supported, before a new motion to either grant or refuse the application is proposed the Committee must first receive advice from the Director of Planning and Strategic Transport, or his/her representative, as to what form a new motion could take. That advice will be based upon the material considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge. The solicitor advising the Committee will be called upon as necessary to give advice on legal matters.
- 8.9 If the officer considers that he/she is unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the officer can bring a report to the next available Committee setting out his/her advice.

## **Decisions contrary to the Development Plan**

- 8.10 The law requires that where the Development Plan is relevant, decisions must be taken in accordance with it unless there are good planning reasons to do otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). If a Committee intends to approve an application which is contrary to the Development Plan, the material considerations must be clearly identified and the justification for overriding the Development Plan clearly demonstrated. The application will have to be advertised in accordance with Article 13 of the Town and Country Planning (Development Management Procedure) Order 2010 and, depending upon the type of development proposed, may also have to be referred to the Department for Communities and Local Government.
- 8.11 If the recommendation in the officer report would be contrary to the Development Plan, the justification will be included in that report.
- 8.12 If a Committee is minded to make a decision contrary to the officer recommendation (whether for approval or refusal) and that decision would be contrary to the Development Plan, such a motion may only contain the Committee's initial view and must be subject to a further report detailing the planning issues raised by such a decision. Further consideration of the matter must be adjourned to a future meeting of the Committee when officers will present a report setting out the proposed new position and explaining the implications of the decision.
- 8.13 If, having considered the report, the Committee decides to determine the application contrary to the Development Plan, a detailed minute of the Committee's reasons, which as a matter of law must be clear and convincing, shall be made and a copy placed on the application file.

## **9 SITE VISITS BEFORE A COMMITTEE MEETING**

- 9.1 It is advisable that Members are familiar with the sites of the applications on the agenda to enable them to make informed decisions on the planning



applications before them and to avoid deferring or adjourning those decisions pending site visits.

- 9.2 Where Members visit the site themselves before the meeting, care must be taken to ensure that they comply with the Planning Code of Good Practice (part 5D of the constitution). Such visits should be carried out discreetly and Members should avoid making themselves known to the applicant or to neighbours. Accordingly Members should not go onto the actual application site or into a neighbouring property. The reason for this is that contact between a Member of the Committee and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. If such contact is made this should be declared in Committee, but this should not prevent that Member from taking part in the consideration of that application, provided that the Member has followed the advice in the Planning Code of Good Practice and acts in accordance with the Members' Code of Conduct.

## **10 FORMAL SITE VISITS BY THE COMMITTEE**

- 10.1 A formal site visit will be arranged where the Committee have resolved, on a majority vote, to visit the site. Site visits should only be selected where there is a clear and substantial benefit to be gained. The Director of Planning and Strategic Transport may recommend that the Committee should conduct a site visit.

- 10.2 The procedure for formal site visits by the Committee shall be as follows:

- Any of the Members and substitute Members of the Committee and officers can attend a site visit.
- Arrangements for visits will not normally be publicised or made known to applicants, agents or third parties.
- Where permission is needed to go onto land, contact will be made with the owner by officers. The owner cannot take any part in the visit, other than to effect access onto the site.
- The purpose of a site visit is to enable Members to inspect the site and to better understand the impact of the development. The Committee should not receive representations or debate issues during a site visit.
- An application cannot be determined at a formal site visit by a Committee and must be considered at the next appropriate meeting of the Committee.
- The Democratic Services Manager will make a note of the site visit and it will be included in the Addendum Report.
- Failure to attend a formal site visit shall not bar a Member from voting on an item at the Committee meeting that considers it, provided the Member is satisfied that he/she is sufficiently familiar with the site.

- 10.3 When a site visit has taken place, Members are reminded about the principles referred to above under the heading 'Order of proceedings' concerning the need to have heard the whole of a planning application before taking part in the voting.

## **11 AMENDMENTS/ VARIATION**

- 11.1 Where amendments/variation to these Rules are necessary due to legislative changes, the Borough Solicitor, Director of Legal and Democratic Services may make such consequential changes to these Rules as are necessary to take such changes into account.