

## **PROTOCOL FOR THE OPERATION OF THE PLANNING AND REGULATORY SERVICES COMMITTEE**

### Preliminary Matters

*A list of applications which have been delegated to appointed Planning Officers for determination pursuant to the Council's Scheme of Delegation on Planning Applications and Other Matters will be circulated to all Councillors each week. Within 5 working days of the publication of said list, Councillors can request that an application is referred to the Planning and Regulatory Services Committee. A sound planning reason must be given for such a referral.*

- All Planning and Regulatory Services Committee Members will be sent the agenda in advance of the meeting with a report on each application to be considered by the Committee.
- Officers will prepare an addendum on the day of the meeting to report any up-dates since the agenda was issued.
- The Chair will hold a pre-meeting with Planning Officers on each application to be considered in advance of the Planning and Regulatory Services Committee meeting.
- Planning and Regulatory Services Committee meetings will be open to the public.
- Substitute Members will not be permitted to deputise.

### **1. Frequency of Meetings**

The Planning and Regulatory Services Committee will meet at least once a month. Additional meetings will be at the discretion of the Chairman with the consent of the Committee.

### **2. Terms of Reference**

- To exercise the functions of the Council where these are not delegated to Officers as identified in the approved Scheme of Delegation.
- To determine a planning application or to decide upon or vary appropriate conditions, limitations, terms or other restrictions upon any approval, consent or permission granted and/or agree reasons for refusing consent.
- To note all reports received in respect of planning enforcement matters which are to be presented on a quarterly basis and/or when requested by members of the Committee.
- To approve the Local Development Plan and ensure that it is monitored every year and reviewed every 5 years.
- To approve other matters as and when they may arise, including the designation of Conservation Areas.
- Consider the development of linkages with community planning and other Council services.
- To strategically oversee the performance, administration and enforcement of the Building Control function in accordance with Regulatory Standards and Framework, maintaining and keeping up to date with legislative changes.
- To investigate, explore and develop linkages between Regulatory services and other Council services such as Planning and Regeneration with a view to providing greater integration, synergy and added value.

- To forge/establish linkages with key external agencies such as LPS, DSD and other agencies as appropriate to enhance service provision/performance and outcomes for Council and service end users.

### **3. Remit of Planning & Regulatory Services Committee**

#### Development Management

The main role of the Planning and Regulatory Services Committee is to consider planning applications made to the Council as the local planning authority and decide whether or not they should be approved. The decisions of the Planning and Regulatory Services Committee in determining planning applications will be taken on behalf of the Council and will not go to the full Council for ratification.

#### Development Plan

The Planning and Regulatory Services Committee's role in relation to development plan is to approve the Local Development Plan before it is passed by resolution of the full Council. The Committee will also have an oversight role to ensure that the Local Development Plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that the plan is reviewed every 5 years, giving consideration to whether there is a need to change the plan strategy or zonings, designations and policies.

#### Enforcement

All enforcement activities will be delegated to Planning Officers, who can use their professional judgement, in consultation as necessary with the Council's Legal Adviser, on what enforcement action to take, if any, to address breaches of planning control and/or whether or not to commence prosecution proceedings.

The Planning and Regulatory Services Committee will receive for information on a quarterly basis a report relating to planning enforcement matters. The Committee can also request a report on any enforcement matter at any time. Officers will exercise discretion when discussing sensitive enforcement matters at the Planning and Regulatory Services Committee to ensure possible future legal proceedings are not prejudiced.

#### Regulatory Services

The Planning and Regulatory Services Committee is responsible for overseeing the operation of the Council's Regulatory Service/Building Control.

All enforcement activities will be delegated to Building Control Officers, who can use their professional judgement, in consultation as necessary with the Council's Legal Adviser, on what enforcement action to take if any to address breaches of Building Control matters and/or whether or not to commence prosecution proceedings.

#### Format of Planning and Regulatory Services Committee Meetings

This will be subject to amendment in line with the Council's Standing Orders:

1. Apologies for absence and substitutions
2. Approval of Minutes of the previous meeting
3. Declarations of Interest
4. Schedule of Planning Applications
5. Development Plan issues
6. Enforcement and/or other matters
7. Regulatory Service matters

## 8. Dates of future meetings

At the beginning of each meeting of the Planning and Regulatory Services Committee, the Chairman will advise the following:

*“During the course of this meeting, questions may be asked by Councillors who are members of the Planning and Regulatory Services Committee of Planning Officers, applicants for planning permission, objectors or those speaking on their behalf. In doing so, Councillors endeavour to ascertain the information which they feel is necessary to enable them to determine the application. However, members of the public should note that Councillors will not reach a conclusion as to whether an application should be approved, refused or deferred until the debate on the application has concluded”.*

### Consideration of Planning Matters

The following minimum standards of practice will be followed for the meetings:

- All Members will have pre-read the Planning Officers’ report.
- The Committee will be conducted in an orderly fair and impartial manner.
- Consideration of planning matters.

The following procedures will apply for each application under item number 4 – Schedule of Planning Applications:

#### **(i) Introduction by Planning Officer**

The Planning Officer will present the application and make a recommendation on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown.

#### **(ii) Representation by Councillor, MP or MLA**

The total time allowed for representations by a Council Member for or against an application will be 5 minutes, unless the Chair of the Committee on the day decides to extend the time allowed due to unusual or exceptional circumstances. Where more than one Councillor wishes to speak for or against the application, this time slot will be shared.

MPs and MLAs will be permitted to address the Committee where they have been asked to represent their constituents. Proof of this fact must be submitted to the Council’s Chief Administrative Officer/Committee Clerk by 12 noon two working days before the meeting.

The total time allowed for representations from an MP for or against an application will be 5 minutes, unless the Chair of the Committee on the day decides to extend the time allowed due to unusual or exceptional circumstances. Where more than one MP wishes to speak for or against the application, this time slot will be shared. This rule will also apply to MLAs wishing to speak about the application.

#### **(iii) Representations – Objectors**

The total time allowed for an objector to address the Committee will be 3 minutes unless the Chair of the Committee decides on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. Where there is more than one objector, the Chair will ask for a spokesperson to represent their views.

**(iv) Representation on behalf of Applicant, Agent or Supporter**

The total time allowed for an applicant, agent or supporter to address the Committee will be 3 minutes unless the Chair of the Committee decides on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances.

If more than one person wants to speak in support of the application, the Chair of the Committee will ask for a spokesperson to represent their views.

**(v) Members' Questions to Objector, Applicant, Agent or Supporter**

**(vi) Planning Officer's Comments**

The Chair of the Committee will invite comments from the Planning Officer and Legal Adviser. Their comments will always be sought, prior to the matter being voted on by the Committee.

**(vii) Members' Debate (including, as necessary, further advice from the Planning Officer and/or Legal Adviser)**

**(viii) Members' Decision**

Any member who agrees with the officer's recommendation to approve an application can propose it be accepted. This will need to be seconded by another Member. Before the decision is agreed, the Chair will ask members if there is an alternative proposal, which would also have to be proposed and seconded. In the event of contrary proposals, the members will be asked to vote. The Chair has a casting vote.

Members must be present in the council chamber for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or act as proposer or seconder on that item.

Members can add, remove or amend conditions that are recommended by a Planning Officer. Where it is intended to do so, it will be proposed and seconded. Members must be aware of the legal tests that conditions need to meet – they are required to be necessary, enforceable, precise, reasonable, relevant to planning and relevant to the development under consideration. The Planning Officer and/or Legal Adviser will be invited to comment on any proposed amendments to conditions.

Any member who does not agree with the Officer recommendation to approve an application can propose reasons for refusal, which will need to be seconded by another member. Any decision by the Committee to overturn an Officer's recommendation must be based on sound planning grounds. The Chair will seek the views of the planning officer and/or legal adviser before seeking a proposer and seconder on reasons for refusal which are contrary to the officer's recommendation.

The reasons for any decision which are made contrary to the Planning Officer's recommendation must be formally recorded in the minutes and a copy placed on the file.

***Anyone wishing to address the Committee must provide written notification to the Council's Committee Clerk by 12 noon two working days before the meeting, giving their name, agenda item they wish to speak on and whether they are objecting to or supporting the application. The Planning and Regulatory Services Committee will be provided with the details of the speakers.***

The Chairman may:

- Suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting;
- Vary the order of representations if he/she feels that it will assist the Committee in dealing with the matter and provided that it will not cause prejudice to the parties concerned;
- Vary the order in which the Schedule of Applications is considered, if he/she feels that it will assist the Committee in dealing with the schedule and provided that it will not cause prejudice to the parties concerned; and/or
- Ask a speaker to clarify an issue they have raised but the Committee will not enter into a debate with a speaker.

#### **4. Deferrals**

The Planning and Regulatory Services Committee can defer consideration of an application to allow for further information in respect of the proposal or for a Site Visit to be conducted. Reasons for deferral will be recorded.

#### **5. Site Visits**

Site Visits will be undertaken where Members consider they are necessary in order to reach a decision on an application.

The Council's Planning and Regulatory Services Committee Clerk will contact the applicant/agent to arrange access to the site. Invitations will be limited to Members of the Planning and Regulatory Services Committee and Council Officers. Site Visits are not an opportunity for applicants to lobby Councillors or to seek to influence the outcome of an application.

The Chairperson of the Planning and Regulatory Services Committee will oversee the conduct of Site Visits. They will start promptly at the time notified to Members, and interested persons. At the request of the Committee Chairperson, the Planning Officer may be invited to describe the proposal to Members. Whilst Committee Members will be expected to be familiar with the Planning Officer's report, plans/drawings may be used where necessary.

The Planning Officer may indicate matters of fact in relation to the proposal and surrounding land which Members can take account of. Through the Committee Chairperson, Members can ask the Planning Officer for factual clarification on any planning matter relating to the proposal or surrounding land such as distances to adjoining properties or the location proposed car parking.

At no time during the Site Visit should Members debate the merits of the planning application.

At no time during the Site Visit should the applicant, their agent, any objector or any other member of the public who have learned of the visit and are present on the site be allowed to address Members. The public right to address the Planning and Regulatory Services Committee does not arise until the item is reached on the Committee Agenda.

Members should keep together in one group with the Chairperson and the Planning Officer and should avoid breaking away into smaller groups. Once the site visit is concluded, Members should leave the site promptly.

The Planning Officer will prepare a written report setting out the details of the site visit which will be presented to the meeting of the Planning and Regulatory Services Committee at which the application is to be determined.

Councillors are advised not to carry out their own unaccompanied site visits to avoid potential issues around trespassing onto land or encountering applicants or third parties which could lead to allegations of prejudice.

Attendance at site visits is optional, but it is recommended that the full Planning and Regulatory Services Committee attends, unless there are exceptional reasons for not doing so. The Clerk to the Planning and Regulatory Services Committee will record the date of the visit, attendees and any other relevant information.

Site Visits are part of the process by which the Planning and Regulatory Services Committee determines an application. Accordingly, only those Members of the Planning and Regulatory Services Committee who attend the Site Visit will be permitted to participate in any subsequent debate or vote by the Planning and Regulatory Services Committee on the applicable application to ensure that all Members determining the application do so on the basis of the same information.

## **6. Pre-Determination Hearings**

The Planning and Regulatory Services Committee will hold a Pre-Determination Hearing when it is legally required to do so and/or where the Committee considers it is necessary to hear the views of the local community before making a decision on a major planning application.

The procedures for such hearings will be the same as for a normal meeting of the Planning and Regulatory Services Committee, except that the applicant and all those who made representations to the Council regarding the application will be permitted to speak at the hearing. If the hearing is to be held on the same day that the Council is proposing to determine the application, the Planning Officer's report will include a recommendation.

## **7. Written Statements from the Public**

If a Council Member or member of the public is unable to attend the meeting of the Planning and Regulatory Services Committee they may instead submit written representations for consideration by Members. Such representations must not exceed 300 words and must be submitted to the Council's Committee Clerk by 12 noon two working days before the meeting. Written representations will be reported to the Committee in an update report and circulated to Members at the meeting.

Material received from the public at a meeting will not be accepted or circulated as Councillors are unable 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 consideration arising.

## **8. Exhibiting Models and Displays at the Meeting**

Applicants or members of the public can exhibit models or displays at the meeting so long as they notify the Council's Planning and Regulatory Services Committee Clerk of their intention by 12 noon two working days before the meeting, giving their name, agenda item it relates to and whether they are objecting to or supporting the application.

## **9. Recording Meetings**

Meetings of the Planning and Regulatory Services Committee will be audio recorded and these recordings will only be used to verify the accuracy of the record of proceedings for the minutes. Recordings of meetings will be destroyed as soon as the minutes of the meeting are agreed by Council, except where retention for a longer period is otherwise required. Appropriate signage will be displayed in the public gallery and a verbal disclosure statement will be made at the commencement of each meeting.

Members of the public are not permitted to record proceedings unless permitted by the Council as per Section 10(1) of the Council's Standing Orders which states *"Taking photographs of proceedings or the use of any means by members of the public to enable persons not present to see or hear proceedings (whether at that time or later) or making of any oral report of any proceedings as they take place shall be prohibited unless expressly permitted by the Council"*

#### **10. Meeting Etiquette**

All representations will be heard in silence and without interruption. The Chair will not permit disruptive behaviour. If the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee.

#### **11. Members Should Not:**

- Rely on considerations that are not material considerations.
- Question the personal integrity or professionalism of officers in public.
- Propose to determine an application against an officer's recommendation until the reasons for that decision have been formulated.
- Seek to re-design or negotiate amendments to an application. The Committee must determine applications as they stand.
- Speak, propose or second a recommendation at a meeting of the Planning & Regulatory Services Committee in relation to a planning application submitted by or on behalf of that Councillor or a family member, friend or close personal associate of that Councillor.
- Furthermore, any such Councillor must leave the room when the application is being discussed.

#### **12. Provision of Legal Advice**

Members may require the Legal Adviser to provide legal advice on an issue which arises during the course of a meeting of the Planning and Regulatory Services Committee. In such circumstances, the Committee shall meet in private with only members of the Planning and Regulatory Services Committee, presiding officials and the Legal Adviser(s) remaining in the room. For the avoidance of doubt, all Councillors who are not members of the Planning and Regulatory Services Committee and members of the said Committee who have chosen to speak as a supporter or objector to an application will be required to withdraw from the room while the legal advice is provided on the matter arising.

**(Amended 11.04.18)**