

# **PLANNING COMMITTEE PROCEDURE RULES**

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## **1 INTRODUCTION**

- 1.1 These Rules apply to all meetings of the Council's Planning Committees in relation to the determination of planning applications and any other business dealt by the committee.
- 1.2 When the term "Councillor" is used, it means that the text is applicable to all Members of the Council. The term "Planning Committee Councillor" means a Member or a substitute Member of the Council's Strategic Planning Committee or Planning Committee.
- 1.3 The determination of planning applications is a statutory administrative process involving the application of national, strategic, local and neighbourhood level planning policies 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. To mitigate these risks, it is vital that those involved in the determination of planning applications, and particularly officers and Councillors, act reasonably and fairly to applicants, supporters and objectors.
- 1.4 These Rules are designed to help ensure that this is achieved, but they should not be read in isolation. Councillors need to also have regard to the Planning Code of Good Practice (the Planning Code) within this Constitution. Whilst both these Rules and the Planning Code interpret the Members' Code of Conduct with respect to planning matters, they are subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between these Rules and the Members' Code of Conduct, the latter shall prevail.

## **2 COMMITTEE CONSIDERATION CRITERIA**

- 2.1 Part 3 of the Constitution (Responsibilities for functions) sets out what functions are the responsibilities of committees and the functions delegated to staff.
- 2.2 Part 3.1.2 (Functions delegated to general council committees) set out the matters that are within the remit of a Planning Committee.
- 2.3 For Strategic Planning Committee, these are:
  - 1. To receive presentations in the pre-application or pre-determination stage.
  - 2. To determine:

- a. Applications for Planning Permission; or
  - b. Applications for Listed Building Consent; which, in the opinion of the [Head of Planning] acting in his or her discretion, raise strategic issues and should be determined by the Strategic Planning Committee.
3. Any other planning matter which, in the opinion of the [Head of Planning] acting in his or her discretion, raises strategic issues and should be referred to the Strategic Planning Committee.
- 2.4 For Planning Committee, these are:

1. To determine:
    - a. Applications for Planning Permission; or
    - b. Applications for Listed Building Consent; except where they are referable to the Strategic Planning Committee.
  2. Any planning matter referred to the Planning Committee by the [Head of Planning] acting in his or her discretion.
- 2.5 Part 3.3 (Functions delegated to staff) lists all the planning powers that have been delegated by Council to specific officers and identifies the exceptions where they need to be determined by a Planning Committee in accordance with the Committee Consideration Criteria in these Procedure Rules. These exceptions relate to applications for Planning Permission or Listed Building Consent only. All other planning application types are delegated to officers.

### **COMMITTEE CONSIDERATION CRITERIA**

- 2.6 The Committee Consideration Criteria in relation to planning matters are: Planning Committee to approve Applications for Planning Permission or Applications for Listed Building Consent where at least one of the following applies:
- a) the application is within the categories which must be referred to the Mayor of London under the Town and Country Planning (Mayor of London) Order;
  - b) the application does not accord with the provisions of the Development Plan and, in the opinion of the [Head of Planning] acting in his or her discretion, constitutes a significant departure;
  - c) the application is by or on behalf of the Council and, in the opinion of the [Head of Planning] acting in his or her discretion, it is a significant development;
  - d) Individual Representations have been received, in accordance with these Rules;
  - e) a Petition Representation has been received, in accordance with these Rules; or
  - f) a Representation from a Ward Councillor has been received, in accordance with these Rules.
- 2.7 Any application caught by these Criteria is referred in these Rules collectively as a Planning Committee Matter.

### **GENERAL**

- 2.8 The Rules around Individual Representations, Petition Representations and Ward Councillor Representations (referred in these Rules collectively as Representations) comprise:

**Timescales:** within which all Representations must be with the Planning Service

**General Requirements:** that all Representations must comply with

**Committee Referral Criteria:** that applies to the specific Representation categories

- 2.9 These will be applied in determining whether any Representation received in respect of a Planning Committee Matter would require it to be determined by a Planning Committee.
- 2.10 Any Representation that does not meet the Timescales, General Requirements and Committee Referral Criteria will therefore not be a factor in deciding whether the application will be considered by Committee. However, such Representations will still be considered by the case officer in finalising their report and recommendation, provided he/she receives the Representation before submitting their report for authorisation.
- 2.11 For probity reasons the Timescales, General Requirements and Committee Referral Criteria must be adhered to. The decision of the [Head of Planning] will be final in determining whether the Timescales, General Requirements or Committee Referral Criteria are met.
- 2.12 Nothing in these Rules interferes with the absolute right of the [Head of Planning] to refer a planning application or other matter to Committee as prescribed in the Constitution.

## **TIMESCALES**

### **Statutory notification period**

- 2.13 Applications may be publicised in a variety of different ways: letters to nearby neighbours, emails to Councillors and, in some cases, by the display of one or more site notices or an advertisement in the local paper. However, it does not matter how a person hears of a proposal, anyone is able to submit a Representation to the Planning Service.
- 2.14 The time limit for the public to make a Representation is specified on the Council's standard letter, notice or advert. The statutory period is usually 21 days.
- 2.15 Representations on applications must be made in writing (letter or email) to the Planning Service. They can also be made directly via the "View Planning Application Received" link and the "Enter Comment" button on a live application on the Council's website.
- 2.16 Representations on a planning application should not be sent to any email address other than the one on the notification email or advert ([planning@haverling.gov.uk](mailto:planning@haverling.gov.uk)). This is important because other email addresses (eg, the case officer, team leader or service head) may not be monitored (eg, the officer may be on leave) and the email will therefore not be actioned.
- 2.17 Councillors must ensure that any Representations made directly to them must go through the Planning Service. It is important for probity reasons to ensure that all representations made on an application follow the same process.

### **Amended plans**

- 2.18 Where the Council accepts amended plans on an application and it is considered necessary to republicise them, the Council will notify those people who have responded to the original publicity exercise and anyone considered to be affected by the amendment.
- 2.19 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 people consider whether they need to make a further Representation as follows:
- If the amendments do overcome their concerns, a person may write to confirm this, but the General Requirements (in particular paragraph 2.23 below) are designed to take account of such circumstances so people do not have to make a further Representation.
- If someone has already made a Representation and the amendments do not overcome their concerns, they should make a further Representation to that effect.
- If the amendment raises new concerns, such further Representations need to be made.
- 2.20 The time limit for responding to publicity of amendments will generally be at least 14 days.

### **Councillor timescales**

- 2.21 All Councillors receive the weekly list of planning applications across the whole borough, listed by ward.
- 2.22 If a Councillor wishes to make or forward Representations on an application, they must respond by email to [planning@havering.gov.uk](mailto:planning@havering.gov.uk) (not to another email address – see paragraph 2.16 above) within the timescale given on that email.

### **GENERAL REQUIREMENTS**

- 2.23 A Representation is a letter, an email or a petition from any party (Councillor, local resident or business, stakeholder etc) that meets all the following requirements:
- It is in response to an application that has been publicised or advertised by the Council;
- It is not anonymous and includes the person's name and postal address;
- It is from, or on behalf of, a person who owns, lives at or operates from an address which is within the London Borough of Havering;
- It is received by the Planning Service within the relevant Timescales set out above;
- It raises objections that are material planning considerations and are related to the application; and
- Any material planning objection raised cannot be overcome by scheme amendment, imposing planning condition(s) or securing planning obligation(s).
- 2.24 Identical or similar pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (ie, each letter potentially being a single signature on a petition) rather than being treated as individual

Representations for the purposes of deciding whether they will trigger consideration by Planning Committee.

- 2.25 We will only notify the person who sends in a petition or a bundle of pro-forma letters about the progress of an application. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified about the progress of an application. A pro-forma letter is a letter or email that has been produced and distributed for people to just sign and send to the Council.
- 2.26 See below for the Criteria for Petitions.

## **COMMITTEE REFERRAL CRITERIA**

### **Individual Representations**

- 2.27 A Planning Committee Matter may be reported to Committee where Individual Representations have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:
- Any Individual Representation clearly states that they wish the application to be determined by a Committee; and  
At least 12 such Representations have been received from individual properties within the London Borough of Havering for each application.
- 2.28 Representations for each application are those that are received from individual properties within the London Borough of Havering, ie not one from each member of a family, a household or a business within a property. If several objections are received from a single property, they will be treated as a single objection.
- 2.29 The Planning Committee Matter will only be reported to Committee under these Criteria where:
- the recommendation is for approval; and  
the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.
- 2.30 Otherwise the Planning Committee Matter will be determined under delegated powers.

### **Petition Representations**

- 2.31 A Planning Committee Matter may be reported to Committee where one or more Petition Representations (including pro-forma letters – see paragraph 2.24 above) have been received that all meet the General Requirements for a Representation and additionally meet the following Criteria:
- Any Petition Representation clearly states that they wish the application to be determined by Committee; and  
All such Petitions must total at least 50 signatures with clearly readable names and addresses from persons who own, live at or operate from an address which is within the London Borough of Havering.
- 2.32 Where such petition(s) contain less than 50 such signatories they will individually (in the case of each petition) or collectively (in the case of pro-forma letters) be treated as each forming a single Individual Representation

for the purposes of deciding whether a Planning Committee Matter will be reported to Committee.

- 2.33 The Planning Committee Matter will only be reported to Committee under these Criteria where:

the recommendation is for approval; and  
the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.

- 2.34 Otherwise the Planning Committee Matter will be determined under delegated powers.

### **Ward Councillor Representations**

- 2.35 A Planning Committee Matter may be reported to Committee where a Councillor for the ward within which the application site is situated or adjoins has made a Representation that meets the General Requirements for a Representation and additionally meets all the following Criteria:

The application is within, partly within or adjoining the Councillor's ward;  
It clearly states that the Councillor wishes the application to be determined by Committee;

It gives specific reasons for this that relate solely to matters that are material planning considerations and justify consideration by Planning Committee rather than under delegated powers – just saying that the Councillor considers that the matter should be determined by Planning Committee will not be sufficient;

It states whether the Councillor has been approached by any person concerning the application; and

If so, provides details of that contact, including the identity of the person(s).

- 2.36 A Councillor, who is not a Ward Councillor, may request that a Planning Committee Matter be reported to committee if they consider that there are exceptional circumstances that justify it. The decision as to whether such a matter is reported to committee is for the [Head of Planning], acting in his or her discretion, to make. Generally, only matters that are within the remit of Strategic Planning Committee will be accepted under this provision

- 2.37 The Planning Committee Matter will only be reported to Committee under these Criteria where:

the recommendation is for approval; and  
the [Head of Planning] (in consultation with the Chairman) agrees to the item being placed on the Planning Committee agenda.

- 2.38 Otherwise the Planning Committee Matter will be determined under delegated powers.

## **3 PUBLIC SPEAKING PROCEDURE**

- 3.1 People can only address the committee on items that are on the Applications for Decision part of the agenda. Other items on an agenda (such as Development Presentations) do not attract public speaking rights, except at the discretion of the Chairman.

- 3.2 Ward Members can address the committee on Development Presentations. The procedures for this are set out towards the end of this section.

## **SPEAKING SLOTS**

- 3.3 Subject always to the limitations below, for each planning application on the “Applications for Decision” part of the agenda there the following separate categories of speaking slot, in the following order, allocated to:
1. An objector who has registered a speaking slot (a “Registered Objector”)
  2. The applicant or his/her agent/representative/supporter(s) in response to a Registered Objector (a “Responding Applicant”)
  3. Councillors – maximum of 3 slots (see next section for rules)
  4. Cabinet Member on Strategic Planning Committee only (see subsequent section for rules)

### **Allocation of speaking slots for Councillors**

- 3.4 For Planning Committee, the Councillor slots are for Councillors where the application site is within, partly within or adjoining their ward only, as these applications generally raise local issues, and those Councillors have also clearly indicated that they wish the application to be referred to Committee for consideration in accordance with these rules (Referring Ward Councillors).
- 3.5 Non-Ward Councillors and non-Referring Ward Councillors do not have a right to address the committee.
- 3.6 For Strategic Planning Committee, the three Councillor slots are open to all Councillors, but priority will be in the following order:
1. Referring Ward Councillors
- Referring other Councillors  
Non-Referring Ward Councillors  
Non-referring other Councillors
- 3.7 For both committees. if a Referring Ward Councillor wishes to speak but is unable to attend the Committee, they may nominate a substitute Councillor to address the Committee on their behalf.
- 3.8 In all cases, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.

### **Allocation of speaking slot for a Cabinet Member**

- 3.9 A Cabinet Member can address Strategic Planning Committee on strategic cases where significant issues for their portfolio area arise. However, where the council is the applicant and the promoting Cabinet Member wishes to address committee, this should be done in the applicant’s slot and not this slot.

### **Length of Speaking Slots**

- 3.10 Each speaking slot for items on Strategic Planning Committee is a maximum of five minutes each. Each speaking slot for items on Planning Committee is a maximum of three minutes each.
- 3.11 If the Chairman, using his discretion, changes the time allocated to any speaker slot, all speaker slots will be offered the same length of time to speak.

## **COMMITTEE NOTIFICATIONS**

- 3.12 Where a planning application is reported on the “Applications for Decision” part of the agenda, all the individuals and organisations (including Councillors)

that made a Representation on the application will be notified (by letter or email) that the application will be considered by Committee.

- 3.13 The Council will only notify the person who sends in a petition or a bundle of pro-forma letters. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified.
- 3.14 The applicant (or his/her agent) will be sent a similar notification.
- 3.15 The notification will explain the procedures regarding public speaking. Requests to address Committee will not be accepted prior to the publication of the agenda and these notifications.

### **REGISTERING A SPEAKING SLOT**

- 3.16 Any objector who wishes to address Committee must notify the Council by the date specified in the notification to register a speaking slot. 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 any changes to the arrangements can be communicated.
- 3.17 The Registered Objector speaking slot is allocated on a strictly first come basis. Any further objectors registering to speak will be told that the slot has been taken.
- 3.18 If there is a Registered Objector on an item, the applicant will be contacted by the Council and given the opportunity to register to speak in response to the Registered Objector.
- 3.19 If there are supporters wishing to address the committee, they must liaise with the applicant. However, the slot is for the applicant to decide how to use.
- 3.20 If a public speaker needs special arrangements this must be brought to our attention when registering a speaking slot so that arrangements can be made in good time. Havering Town Hall has facilities for wheelchair users, including level access and toilets. The Chamber is fitted with a hearing loop.

### **REGISTERING ATTENDANCE**

- 3.21 On the night of the Committee meeting:  
Registered Objectors and Responding Applicants who have a registered speaking slot; and  
An eligible Councillor (or his/her nominated substitute – see paragraphs 3.4 to 3.9 above).  
must register their attendance with the Committee Clerk at the meeting at least 15 minutes before the meeting starts.

### **Limitations**

- 3.22 Where an item is on the agenda only because of the level of Representations received and:  
no Registered Objector, Responding Applicant or Referring Councillor has registered a speaking slot; or

a Registered Objector, Responding Applicant or Referring Councillor has registered a speaking slot but nobody has registered their attendance at the Town Hall in accordance with paragraph 3.21 above; the item will be removed from the agenda and reverted to the [Head of Planning] to determine under delegated powers and will not be considered by the committee. In such circumstances, a Responding Applicant would lose their right to address the Committee.

### **SPEAKING**

- 3.23 All those involved in public speaking are restricted to an oral presentation only. The officers' presentation is therefore not available for use by public speakers.
- 3.24 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 Chairman of the Committee.
- 3.25 The distribution of additional material or information to Planning Committee Councillors is not permitted at the meeting. 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 Planning Service, if it is written material, by noon on the day of the Committee, to include in the Update Report (see paragraphs 5.7 to 5.11 below for procedures, limitations and deadlines) or otherwise send it direct to Councillors in advance of the meeting. Councillors contact details are available from the Council's website.

### **ADDITIONAL CONSIDERATIONS FOR COUNCILLORS**

- 3.26 When a Councillor addresses the Committee in accordance with these Procedures (either as a Referring Councillor or as a Registered Objector) they must:
  - declare, before making their speech, details of any material contact with the applicant, agent, adviser, neighbour, objector or other interested party and whether the speech is made on behalf of such person(s) or any other interest;
  - sit separately from Planning Committee Councillors, to demonstrate clearly that he/she is not taking part in the discussion, consideration or vote; and not communicate in any way with Planning Committee Councillors or pass papers or documents to them during the meeting.
- 3.27 A Planning Committee Councillor may address the Committee in accordance with these Rules but, where they do so, they cannot take part in the debate or vote on the application they have made Representations on. They may address the Committee in accordance with these procedures provided they do not have a Disclosable Pecuniary Interest in the matter.
- 3.28 Where the Councillor has a Disclosable Pecuniary Interest, the Councillor may only address the Committee on any matter in which they have such an interest if they have been granted a dispensation by the Monitoring Officer for this purpose.

## **DEVELOPMENT PRESENTATIONS**

- 3.29 The Responsibility for Functions (part 3 of the Constitution) enables Strategic Planning Committee to receive presentations in the pre-application or pre-determination stage.
- 3.30 Ward Councillors can address the Committee when it is considering Development Presentations. There are three speaking slots a maximum of five minutes each. Ward Councillors will be notified that the development will be presented to Committee. On the night of the Committee meeting a Ward Councillor (or his/her nominated substitute) must register their attendance with the Committee Clerk in attendance at the meeting at least 15 minutes before the meeting starts.
- 3.31 If more than one Ward Councillor indicates that they wish to speak, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.
- 3.32 Like all public speaking slots, Ward Councillors are restricted to an oral presentation only and the presentation is therefore not available for their use. The additional considerations for Councillors, set out above, also apply to these speaking slots.
- 3.33 Ward Councillors who elect to address the Planning Committee at a Development Presentation should remember that the purpose of these presentations is for participants (including Councillors) to be constructive and to try to improve schemes so that they can be approved if they are finally submitted as formal planning applications. Any presentation should be confined to commenting on aspects of the development (eg its design, highway impacts, level of affordable housing etc) and not objecting to the principle of the development or the scheme as a whole. If you are unable to do this then you should not register to speak at this stage. The time to address the Planning Committee on your objection will be when any subsequent planning application is reported on the applications for decision part of the agenda.
- 3.34 If you do not follow the advice in the previous paragraph, the Chairman may stop you from speaking.

## **CHAIRMAN'S DISCRETION**

- 3.35 At the discretion of the Chairman, 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 should not, of itself, be a factor.

## **4 PRE-COMMITTEE MATTERS**

- 4.1 The work of Planning Committee mainly comprises the determination of planning applications. Delays in determining applications will jeopardise the Council's ability to meet national performance targets and impact adversely on the interests of residents and affected applicants.
- 4.2 The Council is expected to decide all applications within statutory timescales. Applications that are to be considered by Committee are 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, Councillors should avoid requests for officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, residents or other interested parties.

#### **PRE-COMMITTEE BRIEFING**

- 4.3 A further potential cause of delay is the deferral by committee of agenda items for Councillors to undertake site visits or receive further information. To minimise this risk Planning Committee Councillors who consider that they need further information (including a site visit) or who have queries on an application should contact the [Head of Planning] as soon as possible before the meeting at which it will be considered.

#### **SITE VISITS**

- 4.4 It is advisable that Planning Committee Councillors 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.
- 4.5 The presumption will be that planning Committee Councillors will be sufficiently familiar with the agenda sites and their locations before the meeting. Councillors may already be familiar with them from their local knowledge or will visit one or more of them in advance of the meeting. Advice on site visits by individual Planning Committee Councillors is given below.
- 4.6 In addition, photographs of sites will be presented by officers at committee.

#### **By Planning Committee Councillors**

- 4.7 Where a Planning Committee Councillor visits the site before the meeting, care must be taken to ensure that they comply with the Planning Code of Good Practice in the Constitution. Such visits should be carried out discreetly and the Councillor should avoid making themselves known to the applicant or to neighbours. Accordingly, he/she should not go onto private land, such as the application site or a neighbouring property. The reason for this is that contact between a Planning Committee Councillor and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. Where such contact is made, this should be declared in Committee, but it should not prevent that Councillor from taking part in the consideration of that application, if he/she has followed the advice in the Planning Code of Good Practice and acts in accordance with the Members' Code of Conduct.

#### **By the Planning Committee**

- 4.8 Where the Chairman of the Committee considers that a whole committee site visit is necessary because a proposal appears to be particularly complex or it is difficult to visualise from the plans, wherever possible this should be made in advance of the Committee meeting.
- 4.9 If a request for a site visit emerges during the meeting of the committee, this request will be decided by a majority vote and the reasons for it recorded in the minutes.
- 4.10 The procedure for site visits by Committee shall be as follows:

Only the Planning Committee Councillors and officers can attend a site visit. Arrangements for visits will not normally be publicised or made known to applicants, agents or third parties, such as objectors.

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 Planning Committee Councillors to view the site and to better understand the impact of the development. The Committee should not receive representations or debate issues during a site visit. They can ask the Planning Officer present questions of clarification.

The Planning Officer will make a note of the site visit and it will be placed on the planning file.

Where new information emerges from a site visit that needs to be brought to the attention of the Committee, this will be included in the Update Report.

Failure to attend a formal site visit shall not bar a Planning Committee Councillor from voting on an item at the Committee meeting that considers it, provided the Planning Committee Councillor is satisfied that he/she is sufficiently familiar with the site and its location.

## **5 COMMITTEE AGENDA**

- 5.1 The Committee's agenda may contain the following sections for planning reports:

**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 attract public speaking rights, other than Ward Councillors.

**Applications for decision:** these items attract public speaking rights as detailed above.

**Other planning matters:** non-application matters that require Committee consideration. These items do not attract public speaking rights.

**Items for information:** reports that are for information only. These items do not attract public speaking rights.

### **REPORTS**

- 5.2 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 [Head of Planning], and will identify and analyse the material considerations, of which the Committee need to take account when considering the application on its planning merits.
- 5.3 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 (via the document management system) at the meeting for inspection by Planning Committee Councillors.

### **RECOMMENDATIONS AND DELEGATIONS**

- 5.4 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:

1. It communicates the details of the recommended decision more clearly to Planning Committee Councillors than many pages of detailed conditions or grounds; and
  2. 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.
- 5.5 It is hereby delegated to the [Head of Planning] to communicate the detailed wording of Committee decisions to applicants.
- 5.6 The Functions Delegated to Staff states that where the Committee determines an item on an agenda and either the committee makes changes to the recommendation or it is necessary for officers to subsequently make changes (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision or to accept changes to the development), the making of these changes, provided that they are within the substantive nature of the committee decision, is delegated to the [Head of Planning].

### **UPDATE REPORT**

- 5.7 It is common for material (such as late representations) to be received by the Planning Service after the close of the agenda. Such material will be considered and placed on the public planning file along with all the other papers for the application, subject only to any public exclusion restrictions.
- 5.8 Where this material needs to be brought to the attention of the Committee, so that it can be considered, it will be presented in the Update Report. It will comprise a summary of what has been raised, in the same way as representations are summarised in the main Committee report.
- 5.9 The Planning Service will email the Update Report to Planning Committee Councillors and publish it on the Council's website as soon as it is ready, but before the Committee commences.
- 5.10 The practicality of producing such a report means there must be a cut-off point for the receipt of late material by the Planning Service. This is noon on the day of the meeting. Generally, material received after this time will not be reported to the Committee. The [Head of Planning] has an absolute discretion in this regard.
- 5.11 Material must not be distributed to Planning Committee Councillors by members of the public (including public speakers) or other Councillors during the meeting. The distribution of such material should be done in advance of the meeting as explained in paragraph 3.25 above.

## **6 ORDER OF PROCEEDINGS**

- 6.1 Except as otherwise stated on the agenda, generally meetings take place at Havering Town Hall. The time the meeting is expected to begin will be stated on the agenda papers.
- 6.2 At the discretion of the Chairman, the agenda may be re-ordered at the meeting.

### **DEVELOPMENT PRESENTATIONS**

- 6.3 The procedure for considering each item shall be as follows:

The [Head of Planning], or his/her representative, will introduce the main issues;

The developer will present their scheme for no longer than 15 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;

A Ward Councillor, if registered to speak in accordance with Rule 3 (Public Speaking Procedure), can address the committee for no longer than 5 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;

Through the Chairman, Planning Committee Councillors may ask questions; and

The [Head of Planning], or his/her representative, will summarise the issues raised by the Committee which will form the minute for the item.

#### **APPLICATIONS FOR DECISION**

- 6.4 The procedure for considering applications where there are public speakers shall be as follows:

The [Head of Planning], or his/her representative, will introduce the development the subject of the application;

Public speaking in accordance with Rule 3 (Public Speaking Procedure) will take place;

The [Head of Planning], or his/her representative, will present the material planning considerations and address, where necessary, any issues raised during public speaking; and

The Committee will consider the item and reach a decision.

- 6.5 The procedure for considering applications where there are no public speakers shall be as follows:

If requested by the Chairman, the [Head of Planning], or his/her representative, will present the main issues; and

The Committee will consider the item and reach a decision.

#### **OTHER PLANNING MATTERS**

- 6.6 The procedure for considering any item shall be as follows:

If requested by the Chairman, the [Head of Planning], or his/her representative, will present the main issues;

Through the Chairman, Planning Committee Councillors may ask questions of clarification; and

The Committee will consider the item and, if required, reach a decision.

#### **OTHER PROCEDURAL ISSUES**

##### **Attendance**

- 6.7 Where a decision is made on an agenda item, to be able to vote a Planning Committee Councillor must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking. Any dispute as to whether the Planning Committee Councillor in question should be permitted to vote shall be decided by the Chairman, in consultation with legal and other officers as necessary.
- 6.8 This does not apply to Development Presentations because no decisions are being made as they are part of an informal pre-application process, rather than the formal planning application decision making process.

## **Duration of meetings**

- 6.9 Planning Committee meetings are subject to a guillotine that they should finish within 2½ hours of the time that the meeting was due to start (as listed on the agenda papers). An item started before the guillotine can continue to be considered for a further 30 minutes to enable it to be determined.
- 6.10 Where a report has been placed on a Planning Committee agenda but the meeting either fails to start to consider that item prior to the guillotine, or starts consideration before the guillotine but fails to complete determination of it within the additional 30 minutes, further consideration of the matter will be suspended and it will be delegated to officers to determine in accordance with the recommendation set out in the report.
- 6.11 The meeting can only suspend these provisions if it does so by way of a resolution made prior to the guillotine and agreed on a majority vote. Generally, the committee would only suspend the guillotine for undetermined items with speakers.

## **Minutes**

- 6.12 The minutes of the meeting will record:
- The Councillors and officers present at the meeting;
  - Any disclosures of interest made by Councillors or officers;
  - For each item, the identity of any public speakers and the decision;
  - Where a decision goes against the recommendation, the reason(s) for doing so;
  - Where a decision is deferred, the reason(s) for doing so;
  - Any decision to suspend the guillotine, and the reason(s) for doing so;
  - The use of the Chairman's discretion to depart from these Procedure Rules, and the reason(s) for doing so; and
  - The time the meeting finished.

## **7 DECISION MAKING**

- 7.1 In coming to a decision on a planning application, a Planning Committee Councillor must:
- Come to meetings with an open mind.
  - Comply with these Rules.
  - Not allow anyone (except officers, other Planning Committee Councillors and public speakers when they are addressing the Committee) to communicate with you (orally, electronically, in writing or by any other means) during the Committee's proceedings as this may give the appearance of bias. For the same reason, it is good practice to avoid such contact in the period before the meeting starts and when it ends.
  - Consider the advice that planning, legal or other officers give the Committee in respect of the recommendation, any proposed amendment to it or on any other matter.
  - Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and always make decisions in accordance with the development plan unless there are good and demonstrable planning reasons to come to a different decision.
  - Come to a decision only after due consideration of all the information reasonably required to base a decision upon. This will include the local

information that Planning Committee Councillors are uniquely placed to access, but always remembering to take decisions on planning grounds alone.

Raise any queries you may have on an application with the [Head of Planning] prior to the meeting.

If you feel that there is insufficient time to digest new information or that there is insufficient information before you, seek an adjournment to allow these concerns to be addressed.

Not vote on a proposal unless you have been present to hear the entire debate, including the officers' introduction and any public speaking. The Chairman should be prepared to consider adjourning briefly to allow any necessary comfort breaks during meetings.

Make sure that if you are proposing, seconding or supporting a decision contrary to the officer's recommendation or the Development Plan, that you clearly identify and understand the planning reasons leading to this conclusion and that you consider any advice planning, legal or other advice officers give you. Your reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## **8 VOTING PROCEDURES**

- 8.1 The Chairman will bring the Committee to a vote when he/she considers that there has been sufficient debate of an item.
- 8.2 The Committee will vote on the recommendation set out in the report, unless a motion is made and seconded to defer or adjourn consideration of an item (for example for a site visit or further information/advice).
- 8.3 If a Planning Committee Member wishes to amend the recommendation (such as an additional condition or a variation to a condition) they will need to move this and have it seconded prior to any vote on the recommendation.
- 8.4 The committee must consider carefully any advice officers give on the proposed amendment, including legal advice. If the [Head of Planning] (or his/her representative) and the legal representative consider that they are unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the [Head of Planning] can bring a report to the next available committee setting out his/her advice. If legal advice is required, this may need to be on the private business part of the agenda. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future committee meeting.
- 8.5 For the vote on the recommendation (or an amendment to the recommendation) to be successful there needs to be a majority vote in favour of it. In the event of an equality of votes, the Chairman has an additional casting vote. This can be exercised irrespective of whether the Chairman voted.

## **DECISIONS CONTRARY TO THE RECOMMENDATION**

- 8.6 A motion to go against the recommendation must always be considered after a vote on the recommendation (or an amendment to the recommendation)

has taken place, so that officers are clear that the committee may be minded to go against the recommendation and can prepare their advice accordingly.

- 8.7 When the recommendation is not supported, a new motion to either grant or refuse the application must be moved and seconded. However, before a new motion is proposed, the Committee must first receive advice from the [Head of Planning], or his/her representative, as to what form a new motion could take. That advice will be based upon the material planning 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.
- 8.8 The solicitor advising the Committee may be called upon as necessary to give advice on legal matters, but cannot advise the committee on planning matters.
- 8.9 Once the Committee has received the advice of the [Head of Planning], or his/her representative, they can proceed to a vote. A detailed minute of the Committee's reasons to go against the officer's recommendation, which as a matter of law (Dover District Council v CPRE Kent [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.
- 8.10 If the [Head of Planning] (or his/her representative) and the legal representative consider that they are unable to give that advice immediately, the procedure outlined in paragraph 8.4 above must be followed. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.

#### **DECISIONS CONTRARY TO THE DEVELOPMENT PLAN**

- 8.11 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. If a Committee intends to approve an application which does not accord with the provisions of the Development Plan, the material considerations must be clearly identified and the justification for overriding the Development Plan clearly demonstrated. The application must be advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 and, depending upon the type of development proposed, may also have to be referred to the Secretary of State for Communities and Local Government (National Planning Case Unit).
- 8.12 If the recommendation in the officer report would not accord with the provisions of the Development Plan, the justification will be included in that report and the necessary advertisement would have been undertaken.
- 8.13 If the Committee is minded to make a decision which would be contrary to the officer recommendation (whether for approval or refusal) and that decision would not accord with the provisions of 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 will be suspended 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. If legal advice is required, this may need to be on the private business part of the agenda. Any

necessary advertisement of the application will also be undertaken. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.

- 8.14 If, having considered the report, the Committee decides to determine the application contrary to the provisions of the Development Plan, a detailed minute of the Committee's reasons, which as a matter of law (Dover District Council v CPRE Kent [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.

## **9 COMMITTEE PERFORMANCE**

- 9.1 Planning Committee carries out the Council's statutory planning application determination function and, like all local planning authorities, are expected to do so properly and lawfully. Decisions "must be made in accordance with the [development] plan unless material considerations indicate otherwise" (s38(6) of the Planning and Compulsory Purchase Act 2004). Government have a range of planning performance monitoring regimes and have taken powers from Parliament to take action where performance is under specified levels. Both speed and quality of decisions are measured.

- 9.2 It is therefore important that the performance of Planning Committee is monitored like other parts of the planning service. The following indicators will be used to monitor performance:

The percentage of officer recommendations that are overturned

The percentage of agenda items that are deferred

- 9.3 Such performance management reports shall be reported at least annually, to Planning Committee in the first instance and then to Council.

- 9.4 Where an application is determined against the recommendation and it goes to appeal, particular consideration will be given to those cases where:

The appeal was allowed;

The appeal was dismissed, but not all grounds were supported; or

Costs were awarded against the Council.

- 9.5 Such matters shall be considered as they arise and reported to Planning Committee in the first instance and then to Council. A summary of these matters shall be included in the annual performance management report.

