



PLANNING COMMITTEE CODE OF PRACTICE

“Everything you need to know about
Planning Committee”

(Updated December 2016-For guidance only – amended draft being prepared)

CONTENTS

1. Introduction	3
2. General Roles, Responsibilities and Conduct.....	3
3. Planning Committee Meetings.....	5
4. Administrative Arrangements	7
5. Pre-Application Discussion and Enforcement Discussions	7
6. Lobbying of Members of The Planning Committee	7
7. Planning Applications Submitted by Members, Community Councils and Officers.....	8
8. Planning Applications Submitted by The Council.....	8
9. Conduct and Procedure of Planning Committee Meetings.....	9
10. Conduct.....	11
11. Procedure.....	11
12. Site Inspections	11
13. Planning Committee Decisions Contrary to Officer Recommendation	13
14. Appeals against Council Decisions.....	13
15. Member Training	14
16. Review of Decisions	14
Background Information	15

1. Introduction

1.1 This Code of Practice is intended to guide the procedures by which Councillors and Officers of the Council deal with planning matters, and to set standards of probity and conduct which the residents of Newport City Council can expect.

1.2 As planning affects people's lives and private interests, it can often be very contentious. It is important that residents of Newport and applicants for planning permission understand the system, have confidence in its integrity and transparency and that Members and Officers involved in the planning process avoid impropriety or even the suspicion of impropriety. This approach is endorsed by the Committee on Standards in Public Life (the Nolan Committee), the Wales Audit Office and the Welsh Local Government Association.

1.3 Members must follow the Codes and Protocols in the Constitution of Newport City Council which cover such matters as declarations of interests, gifts and hospitality and the Protocol for Member/Officer relations. When dealing with planning matters they must also act in accordance with this Planning Code of Practice.

1.4 A breach of these codes whilst not usually amounting to a breach of criminal law, may adversely affect the standing of the Council. It could result in a decision being judicially reviewed or in a complaint of maladministration, being made to the Local Government Ombudsman. A breach of the Members' Code of Conduct can result in a complaint against a Member personally.

1.5 If Members or Officers are in doubt about the application of the Codes they should seek advice from the Council's Monitoring Officer.

2. General Roles, Responsibilities and Conduct

2.1 Members and Officers have different but complementary roles in the planning process. Members of the Planning Committee have different roles to those of other Councillors.

Members of Planning Committee

2.2 There are 11 Members on the Planning Committee and they normally meet once a month.

2.3 Members of the Committee are appointed at the Council's Annual General Meeting, held in May each year.

2.4 Three Members of the Committee constitute a Quorum.

2.5 Councillors who are Members of the Planning Committee are responsible for the determination of planning applications for major regeneration and controversial applications. The Committee must assess proposals against national and local planning policy and carefully balance the benefits of proposed development with any impacts on the surroundings. Members are required to consider all planning proposals in the wider public interest. Decisions are restricted to planning considerations, and cannot seek to control non-planning issues or duplicate other legislative controls.

2.6 Other applications are delegated to the Head of Regeneration, Investment & Housing Services through the Development Services Manager. Details of applications received are available on the Council's website. Members can contact the Case Officer to express an interest in the proposal. In due course that Member will be notified of the Officer's recommended decision. If unhappy with the recommended decision the Member can request referral of the application to Planning Committee for determination.

2.7 However, such requests must be supported by clear planning reasons why the case requires consideration by the Committee. Members shall not put any pressure on Officers to make

particular recommendations or decisions, nor to change recommendations or decisions in respect of any application. However, it is helpful if Members explain their concerns with the Officer in advance of the Committee meeting.

Planning Committee Members shall:-

2.8 For and in meetings:-

- Exercise personal responsibility in deciding whether to declare any personal interest as defined in the Council's Code of Conduct in relation to any planning application that is before the Planning Committee for determination, and withdraw, if so required by the Code. If in doubt, Members shall consult and seek guidance from the Monitoring Officer in advance of the meeting.
- Act fairly and openly.
- Carefully weigh up all relevant planning issues before making a decision
- Make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality. Whilst Planning Committee Members have a responsibility to their constituents, the decisions of that Committee must be based on material planning considerations.
- Have reasons and justification for their position and resolutions (this is a requirement of the Code of Conduct)

Members of the Planning Committee who are also members of Community Councils

2.9 Membership of a Community Council provides an opportunity to listen to local views and does not of itself give rise to conflict of interest for a Planning Committee Member provided he or she maintains an open mind until all the evidence and arguments have been presented to Planning Committee.

2.10 A Member does not have to declare an interest at the Community Council that he/she is a Member of City Council's Planning Committee unless the matter under discussion is an application made by the City Council. They would then have to declare a personal interest but not a prejudicial interest.

2.11 If the Planning Committee Member is a Community Councillor, if the particular Community Council they are sitting on is making an application to the Council the interest would be a prejudicial one and the Member should not take any part in discussion or voting on the application at Committee.

Non Planning Committee Members of the Council

2.12 Ward Members who do not sit on the Planning Committee will be allowed to speak at Planning Committee at the Chairman's discretion. This opportunity shall not apply to delegated items unless they are referred to Planning Committee for determination in accordance with the operation of the scheme of delegation.

Who Can Speak

2.13 Ward Members representing the Ward in which the proposed development is located are allowed to speak at Planning Committee at the Chairperson's discretion.

2.14 Applications to be placed before the Planning Committee will be scheduled for the first available meeting. Applications will not be deferred to later Committee meetings on the grounds that an interested Member is unavailable to attend the scheduled meeting. In the case of Wards represented by only one Member, that Member may nominate another Member to attend the scheduled meeting to speak on their behalf. The Chairperson shall be notified of the nominated Member in advance of the relevant Committee meeting.

3. Planning Committee Meetings

3.1 Meetings of the Planning Committee will normally be held on the first or second Wednesday of each month. Dates for Committee meetings can be found on the Council's website or by contacting City Contact Centre on 01633 656656. The time of Committee meetings will be advertised on the Council's website.

All meetings will be held in public. However the public will be excluded from meetings whenever it is likely in view of the nature of the item to be discussed or the nature of the proceedings, that confidential information would be disclosed.

Public speaking items will be taken first on the agenda. All other applications will be heard in the order in which they appear on the Agenda, other than in exceptional circumstances, and always at the discretion of the Chairperson. The procedure at the Planning Committee meetings is explained in paragraph 9 of this Code of Practice.

The deadline to register for public speaking is 9.00 a.m. on the Wednesday preceding the Planning Committee meeting on the following Wednesday.

Webcasting / Broadcasting of Meetings

3.2: The Council has agreed that certain meetings of the Planning Committee may be the subject of live web transmission ('webcasting'), or recorded for subsequent transmission. Fixed cameras are located within the Council Chamber for this purpose.

The Council will ensure that in doing so it is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998.

The Notice on the agenda and the Chair at the meeting will make it clear that whilst generally the public seating areas are not filmed; by entering the meeting room and using the public seating area, members of the public are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. The process for prospective public speakers will be explained to them.

Content of Ward Councillor Speeches

3.3 Comments by Ward Councillors should be limited to relevant planning issues.

These include:-

Relevant national and local planning policies;

Appearance and character of the development, layout and density;

Traffic generation, highway safety and parking/servicing;

Overshadowing, overlooking, noise disturbance, odours or other loss of amenity.

Ward Councillors should avoid referring to matters outside the remit of the Planning Committee, such as:

- Boundary disputes, covenants and other property rights;
- Personal remarks [e.g. Applicant's motives or actions to date];
- Rights to views or devaluation of property.
- Competition between businesses/services
- Issues covered by other legislation e.g. Environmental Health

Late Representations

3.4 The deadline for the submission of comments on applications being presented to Committee is midday on the Monday immediately before the Planning Committee meeting (on the Wednesday). Comments received by the Case Officer before that deadline will be summarised and sent to Planning Committee Members and the relevant Ward Councillor(s) by 12 noon the day before the meeting. Comments or any other document or information received after that deadline would not be taken into consideration. This procedure ensures that Planning Committee Members have had sufficient time to read any additional papers.

Officers

3.5 The function of Officers is to support and facilitate the Councillors in their work and to ensure that robust and lawful decisions are made. Planning decisions must be made in accordance with the Development Plan and other material planning considerations.

3.6 The Development Services Manager makes decisions on the majority of planning applications under delegated powers and makes recommendations on more significant and contentious applications and other planning matters for decision by the Planning Committee. Officers will provide professional advice and will provide Members with a recommendation on whether or not planning permission should be granted, based on the Officer's assessment.

In considering applications and in advising members of the public on planning policy, the determination of planning applications, enforcement and other planning matters, Officers must:-

- Act fairly and openly and avoid any actions that would give rise to an impression of bias
- Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
- Approach each planning application or issue with an open mind, avoiding preconceived ideas
- Carefully weigh up all relevant planning issues before making a decision
- Make decisions purely on planning grounds having regard to the Development Plan and other material considerations
- Give professional, objective and consistent advice
- Carry out the decision of the Committee insofar as they relate to the completion of any legal agreement, or instigation or defence of proceedings etc

4. Administrative Arrangements

Planning Application Notification

4.1 All Members of the Council will be informed of the submission of all planning and related applications through the weekly list of applications published on the Council's website. This list will include basic details about the application and indicate whether it falls within the "delegated" (i.e. dealt with by the Development Services Manager) or "Committee" category for determination. Further detail on the application, including relevant plans and documents, can be viewed on the Council's website.

Meetings with Applicants and Objectors

4.2 The Local Planning Authority does not organise public meetings in respect of any application. The statutory planning process which includes a procedure for notifying occupiers of land neighbouring an application site provides ample opportunity for the public to make its views known about a proposal. Where appropriate it might be possible for Planning Officers to attend public meetings organised by Ward Members for information purposes. In order to be taken into account in the final decision, all comments made by local residents and third parties must be made in writing (an email is sufficient).

Determination Process

4.3 If an application received is of interest to the Ward Member because it is, or becomes, a controversial or significant local issue, the Member should contact the Case Officer to express an interest in the application. That Ward Member will then be notified in due course of the proposed decision. Should that Ward Member wish for that application to be determined by Planning Committee (being unhappy with the Officer recommendation), he/she should notify the Development Services Manager and Case Officer within the 48 hour period prior to the application being determined, giving planning reasons for calling the application to Committee in writing (or by email).

5. Pre-Application Discussion and Enforcement Discussions

5.1 Local Planning Authorities are encouraged to enter into discussions and negotiations which can bring about improvements that can make an application acceptable, and thereby potentially speed up the process. Such pre-application discussions will normally take place at Officer level and Members shall wherever possible refer requests for such advice to Officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional and they may wish to make a record of the discussion.

All Officers taking part in such discussions shall:-

- Identify the decision-making process applicable to the application or issue under discussion
- Make it clear that only personal professional and provisional views can be expressed that will not bind the Council (Officers or Members) to reach a particular decision when determining the application
- Express views in the context of the Development Plan and other material planning considerations
- Be consistent in interpreting planning policies and Government guidance
- Where appropriate advise applicants, neighbours and objectors on procedural matters.

6. Lobbying of Members of the Planning Committee

6.1 Lobbying is the process by which applicants, agents, neighbours, non Planning Committee Members and other interested parties may seek to persuade Councillors on the Planning

Committee to come to a particular decision. It is legitimate for them to approach Members of the Planning Committee (in person or in writing) and such discussions may help Members to understand the issues and concerns. As stated in the Nolan Committee Third Report “*it is essential for the proper operation of the planning system that local concerns are adequately ventilated*”.

6.2 In responding to approaches of this kind, Planning Committee Members may publicly express an opinion provided that they keep an open mind at Planning Committee meetings but must not have closed their mind prior to hearing all the evidence and arguments, which will be presented at the Planning Committee. They should explain their position in respect of probity if they express an opinion on a proposal before consideration at the Planning Committee. They should:-

- Explain the procedures by which representations can be made.
- Indicate that a decision will be taken only when all relevant planning considerations have been taken into account.
- Explain the kinds of planning issues that the Council can take into account.
- Report issues raised to the Officers or direct the public to the Officers so that their views can be considered. It is helpful if this takes place in advance of the Planning Committee meeting so that all relevant issues are fully considered before the agenda is published.

7. Planning Applications Submitted by Members, Community Councils and Officers

7.1 Any application

- made by any Elected Member of the Council, or
- made by any Officer either employed within the Regeneration and Regulatory Services area or by an Officer who works in close association with the Development Services section (for example as a regular consultee), other than where that application is submitted solely in that Officer’s professional capacity as a Council employee and where the Officer has no personal or prejudicial interest in the outcome of the application; or
- in respect of which an Elected Member of the Council has been consulted as a neighbour; or
- in respect of which the Head of Regeneration and Regulatory Services has responsibility for any aspect of the management of any land or buildings to which the application relates; or
- any other matter where the Head of Regeneration and Regulatory Services considers it appropriate for the matter to be determined by Planning Committee shall be determined by the Planning Committee.

7.2 The affected Member or Officer must declare the existence and nature of the interest or relationship in accordance with the appropriate Code of Conduct and withdraw from involvement in the decision. The affected Officer shall take no part in the processing of the application and any recommendations made to Planning Committee.

7.3 If the Planning Committee Member is a Community Councillor, if the particular Community Council they are sitting on is making an application to the Council the interest would be a prejudicial one. Members should therefore choose whether they should take part in debates at the Community Council or at the Planning Committee. This does not prevent a Member listening to a debate at a Community Council, so long as the Member does not take part in the debate.

7.4 Where a Community Council submits a planning application, the City Council Members who are also Members of Planning Committee should disclose their interest and not participate on that application should it come to Planning Committee for decision (whether a Committee or delegated decision).

8. Planning Applications Submitted by the Council

8.1 It is essential that the Council treats applications for its own development (or a development involving the Council and another party) in the same manner as all other applications and that this

is seen to be the case. Due to the fact that the Head of Regeneration & Regulatory Services' portfolio contains both Property/Estates and Planning, planning applications relating to Council-owned land must be considered by Planning Committee. Applications which are merely sponsored by the Council, such as applications made through the Housing Renewal Team on behalf of disabled persons, can be decided under delegated powers.

Officers' Reports to the Planning Committee

8.2 All planning matters considered by the Planning Committee will be the subject of appropriate written reports by the Development Services Manager incorporating his/her recommendations. Such reports shall be comprehensive but succinct in setting out the key planning issues to be considered in terms of the provisions of the Development Plan and other material planning considerations, the substance of any representations received and any planning history.

All reports will be submitted on the adopted template and will include the mandatory comments of the Monitoring Officer, Head of Finance and any other relevant consultees.

9. Conduct and Procedure of Planning Committee Meetings

9.1 Broadcasting / Webcasting:

At the start of each meeting to be filmed, an announcement will be made to the effect that the meeting is being, or may be, webcast.

The Chair of the meeting has the discretion to terminate or suspend filming, if in the opinion of the Chair continuing to do so would prejudice the proceedings of the meeting or if the Chair, on advice, considers that continued filming might infringe the rights of any individual.

9.2 Consideration of Planning Applications:-

Planning applications will be considered in the following structure:

- a) First there will be a presentation about the application by a Planning Officer, normally using visual aids
- b) Members will have been sent an addendum report outlining any late correspondence received since publication of the agenda but before the consultation deadline. This addendum must be considered by the Committee prior to making its decision on the application.

N.B. Late representations are included in an updated Planning Application Schedule and copies are available at the meeting.

- c) Public speaking:

In any correspondence notifying applicants, supporters or objectors of the meeting date on which an application will be heard, advice in relation to Broadcasting / webcasting of meetings will be included.

Those who have made requests to speak in accordance with the relevant Protocol will be invited to speak in the following order:

- Objector (5 minutes)
 - Supporter (5 minutes)
 - Applicant or their agent (5 minutes)
- d) The Planning Officer will respond as necessary.

- e) The Chairperson will invite the Ward Councillor(s) to speak, if applicable;
- f) The Chairperson will then open the debate by providing an opportunity for members of the Planning Committee to comment or ask questions of the Planning Officer or any other officer in attendance. The Planning Officer or others will be provided with the opportunity to respond.
- g) When a Member of the Committee wishes to speak, he or she will indicate this to the Chairperson. No Member will speak unless called upon to do so by the Chairperson. When called upon to speak, the Member will address the meeting through the Chairperson. If two or more Members wish to speak the Chairperson will ask one to speak and the other(s) **will remain silent**. While a Member is speaking, other Members **will remain silent** until invited to speak by the Chairperson.
- h) When the Chairperson considers all Members have had an opportunity to contribute he or she will ask for a motion to be moved and seconded. If the motion is to do something other than agree the Officer recommendation set out in the report before Committee, **planning reasons should be given at that time and before taking the vote**.
- i) If the vote is against the recommendation of the Planning Officer but with no alternative motion before the Committee, there is a risk of appeal against non – determination by the Committee
- j) If the motion is not carried, further motions will be requested until a motion is carried
- k) The application will be determined by a simple majority vote by show of hands. All Members of the Committee, including the Chairperson, should cast a vote in favour or against the motion before the Committee. As Planning Committee is appointed for the purpose of making decisions on planning applications, it is not appropriate for Members to abstain.
- l) If there are equal numbers of votes for and against, the Chairperson will have a second or casting vote. The Chairperson can only use a second or casting vote if he or she has participated in the original vote.
- m) Following the vote, the matter is resolved. There must be no further discussion on the matter.
- n) If the Committee makes a different decision to that recommended by the Planning Officer, it must articulate and record in the minute the relevant planning reasons:
 - If an application is refused against Officer recommendation, the Committee must provide the planning reasons for refusing planning permission
 - If an application is granted against Officer recommendation, the Committee must suggest any conditions that it thinks should be imposed and the reason for those conditions
 - If the Committee requests a site visit prior to making a final decision, the reasons for that visit must be provided.

Officers will provide the Committee with advice regarding relevant policies and conditions where applicable.

Following the Planning Committee meeting, the Development Services Manager will produce a Decision Notice reflecting the Committee's decision on the application. This gets sent to the applicant/agent and published on the Council's website. The Development Services Manager has delegated powers to add, amend or delete conditions or reasons for refusal as is considered necessary to ensure decisions are robust.

N.B. If a Member joins a Planning Committee meeting after the presentation of an item has begun, then the Member should not take part in the debate or vote on that item.

10. Conduct

10.1 The Chairperson of Planning Committee is responsible for the conduct of the meeting in accordance with the Rules of Procedure (Council Standing Order 9) and for the effective delivery of business in a professional, courteous and transparent manner. The Members of the Committee and Officers shall respect the role and behave in a manner that is commensurate with the high standards of conduct and propriety that are expected in public office.

10.2 The Chairperson will seek to ensure that Members and Officers are treated in accordance with the Council's agreed Protocol on Member/Officer Relations (Part 5 Section 3 of the Constitution), with regard to:-

- The political neutrality of Officers
- The independence of Officers
- Mutual respect, courtesy, civility and professionalism with respect of differing views

Where disturbance of the meeting occurs by way of public interference, the Chairperson may suspend proceedings until matters are resolved or in extreme situations may close the meeting to the public.

Please be aware that the Code of Conduct applies to all Members at all meetings of the Council, whether or not they are broadcast. Laws relating to remarks made about individuals apply at all meetings of the Council, whether or not they are being broadcast

11. Procedure

11.1 The Chairperson will ensure that the meetings of the Planning Committee are conducted in accordance with the Council's Rules and Procedures and safeguard that appropriate debate is able to take place in a structured and professional manner. The Chairperson should seek to avoid repetition or irrelevant debate.

11.2 Members should endeavour to give not less than 24 hours notice (preferably in writing) to the Development Services Manager of all questions requiring a technical or detailed response so that an appropriate response can be prepared for the meeting of the Planning Committee

11.3. Appropriate legal and administrative Officers will be responsible for advising the Chairperson and the Committee on matters of procedure and protocol.

11.4 Where Officers advise the Chairperson of material planning concerns or potential consequences of a particular course of action, or any potential liabilities or errors of fact, Officers shall be afforded reasonable opportunity to concisely explain those matters to Planning Committee before it reaches a decision.

12. Site Inspections

12.1 A Sub-Committee of the Planning Committee will be constituted for the purposes of undertaking site visits on behalf of the Planning Committee known as the Planning Site Sub-Committee.

12.2 The Planning Site Sub-Committee shall comprise six named Councillors of the Planning Committee. Rules of political balance as set down in the Local Government and Housing Act 1989 will apply.

12.3 A site visit by the full Planning Committee may be undertaken in lieu of the Planning Site Sub-Committee if the scale or sensitivity of the development merits such consideration. The decision to undertake a full Planning Committee visit lies with the Committee. Where a full Planning Committee visit takes place, except in exceptional circumstances, the application will be determined at an extra Planning Committee meeting called immediately following the site visit.

This meeting will be a public meeting and the relevant Public Speaking Protocol and Member Speaking Protocol will operate.

12.4 Where an application is deferred then public speakers will not be heard on the second occasion the application is before Members subject to the Chair's discretion in exceptional circumstances to allow such speakers.

Purpose of Site Inspections

12.5 Site inspections by the Planning Site Sub-Committee or full Planning Committee will be undertaken for the following purposes:

- To fact find
- To investigate specific issues raised in any request for a site inspection
- To investigate issues arising from the Planning Committee presentation or discussion
- To enable the Planning Site Sub-Committee to determine an application (grant or refuse), authorise formal enforcement action to be taken, or determine that no further action should be taken, or, if it considers that a proposal merits further debate based on the findings of the site visit, it could refer the matter back to full Planning Committee

Requests for Site Inspections

12.6 Any Member of the Council may request that a planning application site be visited by the Planning Site Sub-Committee prior to the determination of that application. Such requests must be made in writing [e-mail is sufficient] to the named case officer dealing with the application or the Development Services Manager. Any such request must include specific planning reasons for the visit.

12.7 Applications subject to a request for a visit will be reported to the Planning Committee. The report will include details of the request and the reasons given. Planning Committee will decide, following a full presentation of the application, whether or not it considers that a site visit is necessary to inform the decision-making process.

12.8 Where no request for a site visit has been made, Members of the Planning Committee may decide, during consideration of an application, that a site inspection would be beneficial. The reasons for the visit should be agreed and recorded as part of the minute of the meeting.

12.9 Occasionally there will be circumstances when timescales for determination will not allow site visits to be programmed in the normal way e.g. those related to telecommunications development. In such **exceptional circumstances**, at the discretion of the Chairperson of the Planning Committee, a site visit may be undertaken prior to the presentation of the matter to the Planning Committee. As Members of the Sub-Committee will not have received a formal presentation on the application, a recommendation cannot be given nor a decision made. They will be able to report their findings of fact to the Planning Committee only. Members should make their written request, with reasons, in the normal way. All other aspects of the protocol will apply.

Attendance at Planning Site Sub-Committee Meeting

12.10 Attendance at Planning Site Sub-Committee meetings will be restricted as follows:

- Members of the Planning Site Sub-Committee
- Relevant Officers
- Ward Councillors
- Single representative of the Community Council [if relevant]
- Applicant/Agent to allow access to the site
- Neighbour/other Landowner (where access is required to make any assessment)

Representations at Planning Site Sub-Committee Visits

12.11 A site visit is not an opportunity to lobby on an application. Accordingly, no representations may be made to the Planning Site Sub-Committee during the visit. Members of the Sub-Committee may ask questions of those present to establish matters of fact and inform their consideration of the application.

Procedures

12.12 At the initial consideration of the application at Planning Committee, Officers will make a full presentation of the item, including a recommendation to Committee.

At the commencement of the site visit, the Chairperson of the Planning Site Sub-Committee will state the issues for consideration.

The site visit will not be deferred due to the unavailability of applicants/agents, Ward Councillors, Community Council representatives, neighbour or other land owners (unless access onto the site is essential).

Members are reminded that the rules of declarations of interest apply to site visits, and that if a Member has an interest that would require the Member to withdraw from a Planning Committee, the Member is not entitled to attend the site meeting.

12.13 Following the site visit, the Planning Site Sub-Committee will return to the Civic Centre to discuss their findings and determine the application (as set out in paragraph 12.4 above). This is a public meeting. At this meeting, there will be a brief formal presentation by Officers focusing on the site visit issues. The Sub-Committee could limit their debate to the issues considered at the site visit. However, Members will be free to debate the full range of planning issues relating to the application if necessary.

The Public Speaking Protocol will **not** operate at this meeting. However, it will be appropriate to allow Ward Members to address the Sub-Committee prior to it making its decision, at the Chairperson's discretion.

13. Planning Committee Decisions Contrary to Officer Recommendation

13.1 From time to time the Committee will disagree with professional advice given by the Officers and may decide to determine an application contrary to that advice. When this occurs the Chairperson of Planning Committee will ensure that the following principles are followed:-

- Members shall clearly express the planning reasons for their decision and these will be recorded in the minutes.
- A Member proposing refusal of an application for which the Officer recommendation is approval shall state his/her reasons prior to the vote being taken.

14. Appeals against Council Decisions

14.1 Officers will organise and generally appear as witnesses at planning appeals and other proceedings on behalf of the Council. In some circumstances (such as where specialist evidence is required) it may be necessary to appoint Consultants to appear for the Council.

In giving evidence, Officers will present the best possible case on behalf of the Council while complying with the RTPI Code of Professional Conduct. This Code requires that Planning Officers who are members of the Institute do not make statements purporting to be their own, but which are contrary to their *bona fide* professional opinion.

14.2 Members can have an important role to play in appeals and may, within set deadlines, make written representations to the Inspector and may also appear at informal hearings or as a witness at public local inquiries. In doing so they should state whether they are acting in their local Councillor capacity or, representing the Council's case.

14.3 Where Planning Officers are unable to defend decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute) the Planning Committee should be aware of this before the final vote is taken. In such cases, the Committee shall nominate at least two of its Members who voted contrary to the recommendations to appear at any appeal and defend the Committee's decisions, thereby presenting the Committee's reasons for its decision. The Members attending any appeal hearing should normally be the proposer and seconder of the proposal that was contrary to the Officers' recommendation. Those Members will then be required to attend any subsequent appeal hearing, and if necessary, to give evidence in support of the Council's decision.

14.4 Planning and Legal Officers will support Members attending or wishing to make representation at appeals and advise them on preparing and delivering evidence. Legal Officers will attend inquiries or assist in preparing representations when legal representation is required.

14.5 Planning decisions are decisions made by the Council. It is therefore not normally appropriate for an elected Member to support an appellant at Appeal. If Members have concerns about delegated applications, the appropriate course of action is to call the application to Planning Committee for decision.

15. Member Training

15.1 Members of Planning Committee should undertake training which, on occasions, should be offered to all Members of the Council.

15.2 Members will be offered and required to attend core (compulsory) training (normally within three months of appointment to the Committee). This training will cover planning procedures, code of conduct and other subjects determined from time to time by Officers in consultation with the Chairperson.

15.3 Attendance at training events will be recorded and published and will be monitored through the relevant Overview and Scrutiny Forum.

16. Review of Decisions

16.1 The Audit Commission's report "Building Quality" recommends that Councillors should visit a sample of implemented planning permissions to assess the quality of decisions. The purpose of such a review is not to change decisions, but to assess and improve the quality and consistency of decisions and thereby strengthen public confidence and assist in reviewing planning policy.

16.2 The Planning Committee will undertake an annual review of a sample of planning decisions made by the Committee. The review will include examples from a range of development types e.g. major residential proposals, listed building consents and enforcement cases, and, where it is considered appropriate and beneficial, include visits to sites.

16.3 The Planning Committee will consider the results of the review and decide whether it gives rise to the need for new policies, procedures and practices.

16.4 The outcome of appeals against the decisions of the Council will be reported regularly to Planning Committee. The outcome of enforcement cases and legal proceedings will also be reported regularly so that Planning Committee can review its own decision-making processes.

Background Information

The following documents are available on request:-

Planning Scheme of Delegation

Member Speaking

Public Speaking

Public Speaking at "Extra Planning Committee" Meetings

Site Sub Committee