

(Note: This Protocol was adopted by Council on 12th December 2002 with effect from 13th December, 2002. It replaces the previously circulated Planning Committee Procedure Note and Development Control Protocol on communication between officers and Ward Members.)

1. INTRODUCTION

- 1.1. This paper re-states and reinforces the principles that underlie effective member involvement in the development control process. It draws on established local practice and guidance from external sources.
- 1.2. Planning decisions can have a significant impact on our communities and it is fully understood that members wish to play an active role in development control matters, both as representatives and as community leaders.
- 1.3. Most planning decisions are delegated to the Head of Service responsible for Building and Development Services:
 - to minimise delay and maximise certainty to the applicant (customer care)
 - because they are of limited legitimate interest to the public
 - because they can easily be determined within the framework of planning policies
 - because professional officers are competent to deal with them
 - for the efficiency of the service (Best Value Performance Indicator (BVPI) 188 for 2002-2003 sets a national target of 90% delegation to officers)

2. ISSUES TO BE ADDRESSED

- 2.1. The recent high turnover of professional planners, service re-engineering and rising application numbers have placed the development control service under enormous strain. This has had an impact on the quality of member-officer communication, and acceptable standards need to be re-stated and made universal.
- 2.2. These recent changes in member-officer communication arrangements have not been universally understood. Members are not prohibited from meeting with planning officers to discuss applications within their ward but such meetings should be in response to issues that justify them.
- 2.3. For the reasons set out in 1.4 above, member involvement in minor applications delegated to the Head of Service responsible for Building and Development Services should be by exception, not routine, and justified by public interest.
- 2.4. Any Member of the Council may refer any delegated application to Planning Committee within 21 days of receiving notice of the application. However, this should only be exercised where there is significant public interest in the application. The views of immediate neighbours do not, of themselves, amount to significant public interest. *In doing*

so, the Member should identify the grounds for referral up. As an alternative, ward members may seek a view from the decision-maker, i.e. The Head of Service responsible for Building and Development Services or the Development Quality Manager, if they disagree with the case officer's assessment of the application.

3. IMPLICATIONS FOR PLANNING COMMITTEE MEMBERS

- 3.1. Development control is likened to a quasi-judicial process and Planning Committee members must avoid judging issues before all relevant evidence is presented to the Committee. They must view applications dispassionately and with full regard to "the bigger picture" to make decisions in the interest of the whole Borough.
- 3.2. A ward member serving on Planning Committee has a duty to represent local interest, and therefore may play a more partisan role, within reasonable limits (see 5.2 below). However, all Planning Committee Members must ensure that they never give the impression of closing their minds to information relevant to an application, however much pressure they are placed under to take a particular line.

4. GUIDING PRINCIPLES

- 4.1. A particularly positive way in which a member can influence future development is through involvement at the pre-application stage. Planning officers must consider the potential for ward member input and use common sense in contacting interested members. The appropriate forum for pre-application discussion of major schemes is the relevant Area Panel. Although the Area Panels are not decision-making bodies, they can lead to amendments in proposals or alterations to officer recommendations.
- 4.2. Full discussions about all planning applications are encouraged between ward members and case officers on a case-specific basis.
- 4.3. Since the great majority of applications are for household extensions and other minor development it is expected that most queries can be dealt with by telephone or *fax* or by E-mail. For more complex or controversial applications face-to-face meetings between members and officers will be appropriate.
- 4.4. To promote good communications, discussions should normally be held with the responsible case officers rather than their seniors. The latter should become involved only when issues arise that can not be resolved by members and case officers (but see 2.4 above).
- 4.5. Members should ensure that only important applications are discussed in face-to-face meetings with case officers. The duration of such meetings should be limited to what is necessary to ensure a full and mutual understanding of the issues involved in the application and the alternative courses of action that might be taken.
- 4.6. Member-officer discussion should take place at the earliest opportunity, with openness and respect for each other's roles, responsibilities and opinions.
- 4.7. Officers have a duty to give impartial planning advice, without fear or favour.

5. IMPLICATIONS FOR PLANNING COMMITTEE MEMBERS

- 5.1. Ward members have a duty to represent the views of residents, businesses and other organisations within their ward.

- 5.2. Ward member's representative roles give exemption from the normal presumption that Planning Committee Members should avoid giving support to public opinion on how an application should be determined before the meeting. However, ward members on Planning Committee should still avoid active lobbying and must reserve final judgement until all the evidence has been presented to the Committee.
- 5.3. Planning Committee's decisions must be in the interests of the whole Borough and with the objective of implementing development plan policy (S54A, Town and Country Planning Act 1990).
- 5.4. Individually or in Committee, members are entitled to hold views and take decisions contrary to officer advice.
- 5.5. The Chairman or a more senior planning officer can be called on to help make communication more effective.
- 5.6. The Procedure Notes relating to the Planning Committee are set out in Annex 1 and Annex 2 to this Protocol.

6. COUNCILLORS ATTENDING PLANNING COMMITTEE SITE INSPECTIONS

- 6.1. A protocol in respect of Councillors attending Planning Committee site inspections is set out in Annex 3.

7. PRINCIPLES GOVERNING MEMBERS' AND OFFICERS' ROLES AND RESPONSIBILITIES IN DEVELOPMENT MANAGEMENT

- 7.1. Details of seven principles governing Members' and Officers' roles and responsibilities in Development Management are set out in Annex 4.

Member involvement in the life cycle of a planning application

Stage	Opportunity for member involvement	Principal means of communication
Pre-application	<ul style="list-style-type: none"> • Advising officers of local information • Informal consultation on issues and sites known or likely to be controversial 	<ul style="list-style-type: none"> • Telephone • Telephone/meeting
Publicity	<ul style="list-style-type: none"> • Weekly list • Copy plans • Contact with affected third parties 	<ul style="list-style-type: none"> • Post/e-mail • Post/e-mail/intranet/fax • Telephone/meeting
Assessment	<ul style="list-style-type: none"> • Dialogue with case officer • Contact with affected third parties • Area Panels • Reference to Planning Committee 	<ul style="list-style-type: none"> • Telephone/meeting • Telephone/meeting • Meeting • Writing
Negotiation	<ul style="list-style-type: none"> • Updates from case officer 	<ul style="list-style-type: none"> • Telephone
Amendment following negotiation	<ul style="list-style-type: none"> • Weekly list • Copy plans • Contact with affected third parties • Dialogue with case officer 	<ul style="list-style-type: none"> • Post/e-mail • Post/e-mail/intranet/fax • Telephone/meeting • Telephone/meeting
Recommendation	<ul style="list-style-type: none"> • Dialogue with case officer • Requesting reasons for refusal 	<ul style="list-style-type: none"> • Telephone/meeting • Telephone
Decision	<ul style="list-style-type: none"> • Attending Planning Committee • Attending Committee site inspections 	<ul style="list-style-type: none"> • Meeting • Meeting
Appeal	<ul style="list-style-type: none"> • Dialogue with case officer • Attending Hearing or Public Inquiry 	<ul style="list-style-type: none"> • Telephone/meeting • Meeting
Monitoring	<ul style="list-style-type: none"> • Advising officers of local information • Receiving feedback from officers' monitoring visits 	<ul style="list-style-type: none"> • Telephone • Telephone

PLANNING COMMITTEE - PROCEDURE NOTE

(a) Timetable

Agenda for the Planning Committee will be despatched *5 clear working (i.e. not including the day of despatch or day of meeting)* days before the meeting i.e. on the Tuesday of the preceding week for a Wednesday Committee meeting.

(b) Proposals contrary to Officer advice

1. Under normal circumstances a Committee Member wishing to put forward a contrary proposal or a substantive amendment to the Officer recommendation set out in the Agenda, is required to give written notice to the Head of Service responsible for Building and Development Services 2 clear working days before the meeting (i.e. 5 p.m. on the Monday preceding a Wednesday meeting). Such notice will enable Officers to prepare for any additional advice for the meeting, including reasons for refusal or conditions attached to any permission
2. On receipt of written notice of a contrary proposal or an amendment from a Committee Member, the Head of Service responsible for Building and Development Services will notify:
 - The Chairman
 - The Legal Services Representative
 - The Democratic Services Representative
3. On receipt of written notice from a Committee Member, the Head of Service responsible for Building and Development Services may choose to withdraw his report from the Agenda to allow for further discussion. Alternatively, and if the Committee Member's concerns relate to visual amenity, the Head of Service responsible for Building and Development Services may discuss the desirability of arranging a Committee Site Inspection with the Chairman.
4. A Committee Member who, following receipt of the Committee agenda, is minded to oppose the Officer recommendation (though not necessarily move a motion against it or an amendment to it) should formulate his or her reasons for doing so before the meeting. A Planning Officer can assist in this process.
5. If the Committee having debated the issues in full indicates that it wishes to take a decision contrary to Officer advice, and Officers advise that further investigation and clarification of their advice is necessary, the decision on the application may be deferred for the outstanding issues to be addressed.

If the decision is to defer the following wording shall be used in the Minutes of the meeting:

"The Committee was minded to refuse/approve the application contrary to Officer advice on the following grounds/subject to the following conditions and informatives (as necessary) [*herein to be inserted the reasons/conditions, etc.*] but, in accordance with procedures, it was

RESOLVED that consideration of the application be DEFERRED to the next meeting"

(c) Requests for reference up of delegated decisions

1. Any Member may refer a planning application that is delegated to the Head of Service responsible for Building and Development Services to Committee, provided that their request is made in writing *including the grounds for referral up* and within 21 days of being first notified of the application.
2. In the event of an amendment being received to the application a further 3 days is allowed to enable Members to request a referral to Committee.

(d) Changes to officer recommendations

1. Other than with the prior agreement of the Chairman, any other contrary proposal or amendment to an officer recommendation after the agenda is published requires the item to be withdrawn and re-submitted to the following meeting.

PUBLIC SPEAKING AT MEETINGS OF THE PLANNING COMMITTEE

PROCEDURE NOTE

Adopted by Council on 22nd April, 2004 with effect from 1st July, 2004 subject to review in accordance with the following parts of the Constitution - Articles 3, 6, 8 and 13, in Parts 1 and 2, the schedule 2 of responsibilities for functions in Part 3 and the Committee and Sub Committee procedure rules in Part 4.

General

1. The ability for the public to speak at meetings of the Planning Committee only relates to certain specified planning applications (see paragraph 7 below) being recommended for approval by the officers.
2. Due to resource constraints, the onus to find out if an item is going to the Planning Committee and enquire about public speaking rests with the objector by contacting the Council's Building & Development Services Unit.
3. Where objectors register to speak, the Council's Building & Development Services Unit will notify the applicant(s) so that they are aware and can decide whether they wish to speak in response. Applicants can be represented by an Agent.
4. The applicant or Agent cannot speak on applications unless a member of the public has already spoken.
5. Representations at the Committee must relate to planning considerations and must not:
 - Be defamatory, frivolous, offensive; or
 - Disclose confidential information.
6. Public speakers are not allowed to present photographs or other material at the meeting. Written representations in advance of the meeting are permissible.

Scope

7. Public speaking only applies to the following planning applications being recommended by the officers for approval by the Planning Committee:
 - Applications defined as "major" in Government regulations (i.e. residential development of ten or more dwellings or on a site of 0.5 hectares or more, and commercial development of 1,000 square metres floor space or above).
 - Applications made by the Borough Council.
 - Any other application that has attracted a petition of not less than 50 separate names at the time that the agenda is published.

- Any other application that has attracted 25 or more separate objections and/or letters of support (not pro-forma) at the time that the agenda is published. Where letters have more than one signature, each will be counted. If an application has drawn an unusually high number of representations the Chairman may allow more than one representative to speak. Pro-forma letters are defined as letters identical in content but for the names and addresses of the senders.

Registering to Speak

8. Objectors who wish to speak must register in advance with the Council's Building and Development Services by 5.00 pm, 2 days prior to the meeting, i.e. by 5.00 pm on the Monday preceding a meeting to be held on a Wednesday. This must be done by telephoning 01737 276*** (dedicated line) or by e-mail to planning.applications@reigate-banstead.gov.uk. Requests to speak received before the agenda is published will not be counted.
9. Contact details will be required so that these can be notified to other objectors who wish to speak on the same application (see paragraph 11 below). Objectors will also be advised of Town or Parish Council or Residents' Association representatives due to speak on the same application so that duplication can be reduced.

Procedure at Committee

10. Registered speakers shall report to a representative of the Building and Development Services Unit by 7.00 pm on the night of the Committee. Procedures will be explained and directions given as to where to sit in the Chamber. Details of speakers will be recorded and may be shared with the Press.
11. Only one objector shall speak on an application and registered speakers will be put in contact with each other so that they can agree a spokesperson, if this has not already been done. In the event of failure to agree a spokesman, it shall be for the Council to impose a solution based on who registered to speak first.
12. Similar arrangements to those outlined in paragraph 11, shall apply in respect of the Residents' Associations and Amenity Societies. However, where such organisations hold opposing views it shall be at the discretion of the Chairman to allow more than one representative to speak. For applications within their geographic areas Town and Parish Councils shall have a separate right to address the meeting.
13. For applications where public speaking has been permitted under this procedure, the order of speakers at Committee shall be as follows:

Speaker	Time Limit
1. Planning Officer (introduction of item and responses to any questions raised beforehand)	-
2. A representative of the Town or Parish Council	3 minutes
3. A representative of interested Residents' Associations or Amenity Societies	3 minutes
4. One member of the public representing objectors	3 minutes
5. Applicant or their representative	3 minutes

Speaker	Time Limit
6. Ward Members not serving on the Committee	-
7. Committee Members	-
8. Officers (planning and legal advice)	-
9. Chairman (clarification of Motion to be put to the vote)	-

Note: where there is no public speaking, only stages 1,6,7,8 & 9 will apply

14. The Chairman has discretion to allow more time to all speakers if a proposal is unusually significant or complex and to allow more time to any speaker who appears disadvantaged, e.g. through nervousness or illness. Where the Chairman does so he will also allow additional time to the applicant's representative to address any additional points raised due to his extending the 3 minute limit (this is necessary to comply with the rules of natural justice and the principles of the Human Rights Act).
15. In keeping with Committee and Sub-Committee Procedure Rule 5 relation to public speaking, the Chairman's ruling on the exercise of public speaking at any meeting will be final.

PROTOCOL FOR COUNCILLORS ATTENDING PLANNING COMMITTEE SITE INSPECTIONS

1 Objective of Site Inspections

- 1.1 The purpose of a Committee site inspection is to enable members, in their role as decision-makers, to gain information that cannot be gathered by other means and which is necessary to make an informed decision concerning matters to be determined by the Planning Committee. (In the main this will be applications submitted for planning permission). For planning applications, this information will be either:
- (a) To assess local character (where a refusal unsupported by the officer recommendation is possible on character grounds); or
 - (b) To view something of significance to the application that can only be appreciated from within the site or adjacent private property.
- 1.2 Committee site inspections should be an exception. For most proposals, the committee report and material displayed at the meeting will be more than sufficient for an informed decision. However, members may feel that in certain circumstances, particularly when a decision turns on an assessment of character or amenity, understanding the *implications of the* proposal sufficient to make a determination will be improved by a site inspection.
- 1.3 When a member has reason to believe that there may be a case for refusing permission on character grounds contrary to the officer recommendation, the Committee's deliberations may also be aided by a site inspection, as well as demonstrating that full and proper consideration has been given to determining the application. Any request for a site inspection in these circumstances should be made as soon as possible in the manner indicated in paragraph 2.3.
- 1.4 A site inspection should not be used as a substitute for other appropriate actions, for example requesting further information from officers or because reasons for refusal were not requested before the meeting. Deferring an application has cost implications for the Council, causes uncertainty for all, parties and delay to the applicant, and should be avoided wherever possible.
- 1.5 For these reasons, it is important that, wherever possible, the need for a Committee site inspection is identified at as early a stage as possible, ideally so that it can be undertaken before the application is considered at a Committee meeting. The ward member's knowledge of the area should allow them to identify such sites at an early stage.

2 Requesting a Site Inspection and Moderation of the Request

- 2.1 Requests should be made as early as possible in the application process so that applications to be determined by Committee are processed in a timely manner and avoid undue delay to the applicant. Ideally, the desirability of a Committee site inspection should be expressed at the pre-application stage. If this is not possible, the request should be within 21 days of receiving notice of the application.

- 2.2 Where an application is scheduled for Committee determination, should a member feel that they or other members of the Committee may not fully understand the potential impact of the proposal without first having seen the site *or its surroundings*, they should request a Committee site inspection.
- 2.3 Requests for site inspections should be made to the Head of Service responsible for Building and Development Services or the Development Quality Manager. All such requests will have to be agreed by the Chairman of the Planning Committee or the Vice-Chairman in his absence. The important factor is that the application should be analysed as soon as possible after receipt of the Weekly List so that sufficient time remains to undertake the site inspection and still determine the application with minimal delay to the applicant.
- 2.4 A pro-forma for requesting site inspections is appended, and should be used.
- 2.5 The Chairman will consult with officers and decide whether a formal site inspection is necessary to view something of significance to the application that can only be appreciated from within the site or adjacent private property.
- 2.6 Where the key issue is character (including design) and an inspection is deemed necessary, but the Chairman has decided that it will not be necessary to enter private land, members will be notified of the need to make their own arrangements for an informal and unaccompanied inspection of the surrounding area before the Committee meeting.

3 Issues to Consider at Site Inspections

- 3.1 Members must make all reasonable efforts to attend Committee site inspections, and to undertake informal inspections of the area if requested, both of which form part of the Committee's official business. When the Chairman has decided that an inspection of a site is necessary in order for a properly informed decision to be made, it would be unacceptable – and potentially open to judicial review - for the vote at the subsequent meeting to be dominated by members who did not attend.
- 3.2 Site inspections are time consuming and can be disruptive to occupiers of the site being inspected. Site visits therefore need to be conducted as quickly as possible whilst ensuring all the necessary information is gathered.
- 3.3 Prior to the site inspection, members should ensure they understand what is being proposed and form a view on what information they may need to gather. Reviewing the application (details will be on the Council's web site), and any published officer report before the event will help develop a good understanding of the proposal and its setting. This will greatly assist understanding during the site inspection. Details to consider include:
- (i) The relationship between the application site and its immediate and wider surroundings. Is it within a Conservation Area, the Green Belt, Areas of Outstanding Natural Beauty or Great Landscape Value, a Residential Area of Special Character or subject to any other planning constraint?
 - (ii) The likely impact of the development upon the locality.

- (iii) Issues such as positions of windows, possible overshadowing, outlook, proximity and size of trees, the relationship between the site and immediate neighbouring properties, dominance, access and parking issues, plot width, existing and proposed materials, existing and proposed use, any intensification of the use, is the proposal an improvement, are there any improvements that could be made – these are all relevant material considerations when assessing the impact of the proposal.
- 3.4 Any queries arising from a site inspection should be clarified with planning officers as *soon as possible* prior to the committee meeting.
- 4. Conduct During Site Inspections**
- 4.1 Site visits need to be conducted in a professional and transparent manner so that public confidence in the Local Planning Authority is maintained and enhanced.
- 4.2 It is essential that all stakeholders, particularly applicants and objectors, see that the process is conducted professionally and in a fair and fully considered manner. To this end members should have regard to the following guidelines:
- (i) The merits of the proposal must not be discussed. It is important to recognise the process as a fact-finding exercise, with members remaining open-minded until the proposal is debated at the Committee meeting and not as a process of reinforcing preconceived opinions.
 - (ii) If members wish to discuss the merits of the application, this should not take place at the site but at an Area Panel meeting.
 - (iii) A site inspection may well be inconvenient or disruptive to the landowner, especially if the site is in use as business premises or a private home. Members should keep their inspection as brief as possible and be aware of the details of the application prior to the site inspection so that the exercise can be as meaningful and as brief as possible.
 - (iv) Lobbying must be resisted and members must not accept representations during the site inspection.
- 4.3 The above guidelines (i) – (iv) apply to formal inspections by the Committee and informal inspections of the area carried out by individual members.

THE SEVEN PRINCIPLES GOVERNING MEMBERS' AND OFFICERS' ROLES AND RESPONSIBILITIES IN DEVELOPMENT MANAGEMENT

1. Planning Committee Members should concentrate on proposals scheduled for Committee determination, where their community leadership role is most relevant, with strengthened emphasis on participation at the pre-application stage.
2. The aim should always be to engage in a proactive approach that seeks to identify a form of development that might prove acceptable in terms of meeting need and reflecting local character.
3. The content of the Statement of Purpose and its implications for decision-making should be made public.
4. Applications not scheduled for Committee determination should only be referred to the Committee exceptionally, following discussion with the Chairman of the Planning Committee and the Executive Member with responsibility for planning.
5. Comments should be focussed on the planning merits of a proposal, not on those proposing or opposing it or their motives for doing so.
6. Criticism of other parties should not be made public. Any questions about the content of reports should be raised between publication of the Agenda and the meeting.
7. Officers shall provide professional advice and assistance to Members in the discharge of their duties as Ward Members and members of the Planning Committee regardless of their professional views on the merits of any proposal.