



STRATEGIC PLANNING COMMITTEE

WEDNESDAY 16 JANUARY 2008

SUPPLEMENTAL COMMITTEE AGENDA

AGENDA - PART I

- Enc. 15. Protocol for Planning Committee: (Pages 1 - 18)

AGENDA – PART II – NIL

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

Agenda item

Special Circumstances/Grounds for
Urgency

15. Protocol for Planning Committees	Members are requested to consider this item, as a matter of urgency to enable the several major and complex applications either already submitted or expected in the immediate future to be dealt with in an informed and consistent manner.
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Meeting:	Strategic Planning Committee
Date:	16 th January 2008
Subject:	Protocol for Planning Committees
Key Decision:	No
Responsible Officer:	Graham Jones
Portfolio Holder:	Councillor Marilyn Ashton Planning, Development and Enterprise
Exempt:	No
Enclosures:	A. Protocol for Members and Reserve Members when Dealing with Planning Applications and Lobbying B. Connecting Councillors with Strategic Planning Applications: A Good Practice Guide for London

Section 1 – Summary and Recommendations

This report sets out proposed changes to the Protocol for Members and Reserve Members when dealing with Planning Applications and Lobbying and the Council's Committee Procedure Rules

Recommendations:

1. To agree to additional paragraphs as set out in the report as additions to the Constitution Committee Procedure Rules and the 'Protocol for Members and Reserve Members when dealing with Planning Applications and Lobbying' to ensure that decisions are properly taken for planning reasons.
2. That the Changes be referred to the Standards Committee and then to full Council for approval as it has the effect of amending the Council's Constitution

Reason: To ensure sound and consistent decision making

Section 2 – Report

Introductory paragraph

The Protocol for Members and Reserve Members When Dealing with Planning Applications and Lobbying was approved by the Development Control Committee on the 29th April 2003. A copy is attached at Appendix A.

The content of the protocol remains sound but it is considered that additions are required in the interests of better decision making. This is consistent with the aims of the protocol to ensure that decisions are not biased, they are impartial and they are well founded.

Two additions to the protocol are proposed:

1. To specifically allow for members to have early opportunities for engagement on strategic applications. This is designed to ensure that members are fully aware of the proposals before they take decisions
2. To establish a clear process for members voting against officer recommendations such that reasons for refusal are clearly stated and documented. This also needs to be reflected in the Council's Committee Procedure Rules.

These changes are considered particularly urgent as there are several major and complex applications either submitted or expected in the coming months. With this in mind it is recommended that the changes should be recommended to the Standards Committee on 17 March 2008 and the Council on the 17 April 2008.

1.Early Engagement on Strategic Applications

Since 2003 the complexity of the planning process has increased considerably particularly in respect of major applications which can require Environmental Assessments, Access and Design Statements, Transport Assessments, Viability 'Toolkits', Energy Statements, Childrens Play statements etc etc. The numbers of major applications which are currently in the pipeline is far above what has previously been the norm for the authority, and the pressure to deal with these in a timely manner within Government targets remains. .

To enable members to understand large scale applications and their implications the officers consider that they should have the opportunity to ask questions, raise issues and meet applicants, both prior to submission and between submission and determination. However, to avoid any problems of probity this engagement needs to be carefully managed. This approach is recommended in a leaflet published by London Councils, The Government Office for London and London First in November 2007. (attached Appendix B)

Officers are recommending that applicants for major strategic schemes should be invited to make a presentation to members of the Committee and reserves, at which they should explain their proposals and answer questions of fact. Such presentations may also involve a site visit, and where necessary site visits for strategic proposals should be arranged prior to Committee meetings

where the proposal is to be considered. At such presentations there should be no debate about the merits or otherwise of the scheme.

At least one senior officer should be present at all such meetings and may be called upon to answer any factual questions about policy issues etc.

Such meetings can be at either pre- or post-application stages and in some instances both may be appropriate. Similar meetings may also be arranged for ward/backbench members and members of the Executive.

2. Reasons for Refusal against Officer advice

To clearly establish sound planning reasons for refusal for applications where officers have recommended approval the following process is recommended:

1. Members who wish to vote against a recommendation should propose a motion to refuse, which should be seconded and should state clearly the proposed planning reasons for refusal. The motion including the reasons will be included in the minutes.
2. Where such a motion is carried, the reasons stated will become the Local Planning Authority's reasons for refusing the application.
3. Where such a motion is not carried the members supporting the motion for refusal may vote against original officer recommendation .
4. In the absence of a motion for refusal with clearly stated reasons, Members should be aware that a vote against the officer recommendation could result in a refusal with no substantive justification and potential costs against the Council should this lead to a inquiry.

Adherence to this procedure will ensure that the potential danger of an application being refused without clear reasons, with the potential risk of the Council prejudicing any future appeal, will be avoided. The quasi-judicial nature of SPC and DMC reinforces the importance of having clearly spelt out reasons for refusal which are robust, reasonable and sustainable.

Options considered

None

Recommendation:

It is recommended that the Committee agree:

To include para 1. Early Engagement on Planning Applications as an amendment to the Protocol and para 2. Reasons for Refusal against Officer Advice, both as an addition to the Protocol and to the Committee Procedure Rules.

Legal Implications

The proposed changes have the effect of altering the Council's Constitution. Accordingly the proposed changes must be agreed by the Standards Committee and approved by full Council before they are effective.

Financial Implications

There are no financial implications

Performance Issues

The proposed additions to the protocol will assist in respect of BV109a determination of Major Applications in ensuring they are determined in a timely way. Performance is currently very good with 87% of applications determined within 13 weeks for the first 3 quarters of 2007/08. However to maintain this level of performance with the anticipated workload through the next year, many of which will have complex S106 agreements, will be very challenging. BV 204 'Performance on Planning Appeals' is below target and this resulted in a rebate on the 2007/8 PDG allocation due to the poor performance. Currently 43% of planning appeals are successful compared with the national average of 33%. Introducing the proposed procedure should help in ensuring that applications are refused for sound planning reasons.

Section 3 - Statutory Officer Clearance

Name: ...Sheela Thakrar...	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: ...7 th January 2008		
Name: Adekunle Amisu	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: ... 7 th January 2008..		

Section 4 – Performance Officer Clearance

Name: ...Tom Whiting.....	<input checked="" type="checkbox"/>	Divisional Director (Strategy and Improvement)
Date: 7 th January 2008.....		

Section 5 - Contact Details and Background Papers

Contact: Graham Jones, Director of Planning Development & Enterprise – 020 8420 9317

Background Papers:

None

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LONDON BOROUGH OF HARROW

PROTOCOL FOR MEMBERS AND RESERVE MEMBERS WHEN DEALING WITH PLANNING APPLICATIONS AND LOBBYING

1. Introduction

In making any determination under the Planning Acts, Members of the Council sitting on the Development Control Committee should have regard to the development plan (the Unitary Development Plan) and shall determine applications in accordance with the development plan unless material considerations indicate otherwise. Members must do this by balancing the needs and interests of the whole community and of individual constituents, alongside the need to maintain an ethic of impartial decision making on what may be highly controversial proposals.

The aim of this protocol is to ensure that in the planning process there are no grounds for suggesting that a decision is biased, is not impartial or not well founded in any way.

1.2 When does this Code apply?

This Code applies to members at all times when involving themselves in the planning process, including planning appeals and planning enforcement. While this will normally be relevant for members (and reserves) on the Development Control Committee, it will also apply to **all** Council members at Council meetings if they exercise any functions of the Development Control Committee in determining planning applications and other issues. It applies to planning enforcement matters as well as to planning applications

1.3 The requirement for Member training before serving on the Development Control Committee

Planning legislation and guidance can be complex. The Office of the Deputy Prime Minister (ODPM), the Local Government Association (LGA), the Nolan Committee and the Royal Town Planning Institute all recommend that Members who have to make planning decisions should be specifically trained. The ODPM published guidance on Member training in May 1998, and the LGA updated its general guidance for Probity in Planning in 2002.

Members serving on the Development Control Committee must undergo training (which may be in a variety of alternative forms) validated and approved by the Planning Department before serving on the Committee, and must be updated regularly on changes to legislation or procedures. This training will be evidenced by records signed by the Member (e.g. attendance book)

2. Members' Interests and the Code of Conduct

2.1 Relationship of the Protocol to the Members' Code of Conduct

The Members' Code of Conduct applies to all their work as Councillors, so members must apply the rules in that Code to their activity as a member of the Development Control Committee. Breach of the Code of Conduct may result in a complaint to the Standards Board for England.

Members must also apply the rules in this Protocol to their activity as a member of the Development Control Committee. The Protocol is a locally agreed document, which means Harrow's Standards Committee will investigate any breach of the rules within it.

Failure to follow the recommendations within this Protocol may also lead to an investigation into possible maladministration by the authority.

2.2 The registration of interests

Members must complete a '*Register of financial and other interests*' form as set down in the Code of Conduct. Councillors must review their register entry regularly and notify the Monitoring Officer of any change within 28 days.

2.3 Hospitality

Councillors must be very cautious about accepting gifts and hospitality, especially in relation to planning applications. The Code of Conduct requires members receiving gifts or hospitality (in their capacity as members) over the value of £25, to provide details to the Monitoring Officer, for inclusion in the '*Register of gifts and hospitality*'. This notification must be made within 28 days of receiving the gift or hospitality.

2.4 Declaring an interest

Members must consider whether they have an interest in a matter under discussion, and if so, what type of interest it is.

A Member may have a **personal** interest in any matter under discussion:

*'If the matter relates to an interest in respect of which the member has given notice in the statutory register of members interests; or
if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well being or financial position of themselves, a relative or friend, or:*

- *Any employment or business carried on by such persons;*
- *Any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;*
- *Any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or*
- *Any body in which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management'.*

Where a member considers he or she has such an interest, he or she must declare it. The disclosure should state the existence and nature of the personal interest at any relevant meeting, including informal meetings with officers and other members. Declaring a personal interest does not debar the member from participating in the decision unless the personal interest is also prejudicial.

A member with a personal interest must consider whether that interest is also prejudicial.

The Code says that a personal interest becomes a **prejudicial** one:

'If the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest'.

If a member has such an interest, he or she should not participate in a discussion on the matter. The member must state that he or she has a prejudicial interest, state the nature of that interest and must then withdraw from the room and must not seek to improperly influence a decision on the matter.

There are some exemptions in paragraph 12.2 of the Code, which allow a member with a prejudicial interest to continue to participate in the decision. If this is the case the member must still declare the prejudicial interest, but state the exception which allows him or her to remain and discuss the matter in question.

However, in order to reduce any suggestion of bias, members should consider carefully whether or not it is sensible to continue to take part in a planning decision where their prejudicial interest is covered by an exemption.

2.5 Planning applications affecting Members of the Council

If a planning application affects a member, either because they or their family or friends own the land or part of the land affected, or the proposal will affect their land or that of their family or friends, or they wish to act as an agent for the person(s) making the proposal, that member must inform the Chief Planning Officer of the application immediately.

The notification must state the application which affects the member's land, and the nature of the interest. It must be in writing, by letter, fax or e-mail. The notification should be made not later than the submission of the application, or as soon as the Member becomes aware of it, if s/he acquires such knowledge after submission.

This will enable the Chief Planning Officer to ensure that the interest is included on the agenda sheet for the relevant meeting. The interest will be included under the 'Declaration of interests' heading. Members must also orally declare the interest at the meeting. This will help all members decide, early on, whether or not they can participate in a decision.

2.6 Members of the Council who are not members of Development Control Committee

Ward members wishing to speak in this capacity at Development Control meeting may do so provided they do not have a personal and prejudicial interest. They will also require the agreement of the Committee (Committee Procedure Rule 4.1 refers).

The member must tell the chair that they wish to speak in that capacity at the start of the meeting and must not sit in the member seating area during the meeting so that members of the public can clearly see which members are members of the Committee and which are not.

A space will be reserved for backbench members at the committee table, and when the relevant item is to be discussed, the backbench member will be called to sit at the table, will take part in the discussion of that item, and will then withdraw from the table before the decision is taken.

3. The roles of members in planning decisions and the role of officers in supporting them

3.1 The role of elected Members

Elected members serving on the Development Control Committee determine planning applications and enforcement issues. When members are taking decisions relating to planning issues they will listen carefully to all the arguments in favour and against each proposal and will:

- Act fairly and openly;
- Approach each application with an open mind;
- Carefully weigh up all relevant issues;
- Consider the professional advice of officers;
- Determine each application on its own merits;
- Ensure that there are clear and substantial reasons for their decisions and that these are clearly stated;
- Ensure decisions are proportionate;
- Ensure respect for human rights.

The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views may be strongly held by those involved. Whilst councillors should take account of these views, they must not favour any person, company, group or locality, nor must they put themselves in a position where they appear to do so.

The setting of planning policy is the function of the Executive, and members of Cabinet must comply with the same criteria when taking planning policy decisions. Although this protocol is specifically intended for those members dealing with planning applications, it is generally as relevant to those sitting on the Executive, who should have training in planning matters before taking planning decisions.

3.2 The role of officers in relation to member decision making

Officers will advise and assist members in developing planning policy and in determining applications and enforcement issues by:

- Providing impartial and professional advice;
- Making sure all the information necessary for the decision to be made is given;
- Providing a clear and accurate analysis of the issues;
- Setting the applications and enforcement issues against the broader Unitary Development Plan policies and all other material considerations;
- Giving a clear recommendation;

- Carrying out the decisions of the Development Control Committee;
- Determining applications under powers delegated to them by the Council.

Where Members have factual questions about development proposals, it is very helpful for these to be put to officers, where possible, before the meeting. Not only can officers make sure all the information is obtained in response, but it also helps the effectiveness and efficiency of the committee meeting.

4. Lobbying (including representation and communication)

4.1 Lobbying of Councillors by applicants or objectors

It is quite common for applicants or other interested parties to wish to discuss a proposed development with elected members before the determination of a planning application. By the same token, those affected by a proposed decision may seek to influence it through an approach to their elected ward councillor or a member of the Development Control Committee.

Members who are likely to be directly involved in taking planning decisions must, therefore, explain to lobbyists that, whilst they may listen to what is said, it prejudices their impartiality to express a firm point of view or an intention to vote one way or the other when the application is considered by the Development Control Committee.

Lobbying can be perceived to affect the impartiality and integrity of a councillor. In order to avoid that perception, members are advised to:

- Avoid meeting an applicant, potential applicant, or objector alone;
- Listen to any representations made but not make it known in advance of the Development Control Committee meeting whether they support or oppose a proposal;
- Restrict any response they do give to procedural advice;
- Direct lobbyists or objectors, including written representations, to planning officers who can include reference to their opinions in the report;
- Not pressurise officers into making a particular recommendation in the report;
- Notify the Chief Planning Officer of the existence of any lobbying interests;
- Notify the Chief Planning Officer of any interest they have in the application.

Members of the Development Control Committee should not actively campaign either for or against planning applications.

Members should feel free to ask questions of officers in order to clarify their understanding of the proposals.

A member who feels they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) should tell the Monitoring Officer who can advise the relevant officer to take the matter up with the person concerned.

A Development Control Committee member who does not represent the ward affected will find it easier to take an impartial stance on an application. A member who represents the ward concerned, possibly one who has also been campaigning for or against the proposal

will find it difficult to argue, when the decision is taken at the Committee, that they have weighed up the arguments for the first time at the meeting. They should therefore declare a prejudicial interest and not take part in the vote.

The responsibility for striking the right balance in this process lies with the individual member.

4.2 Discussions with potential applicants.

Potential applicants are encouraged to hold pre-application meetings with officers, but in order to avoid the perception that these are, or have become, a part of the lobbying process, these meetings:

- Should be at officer level;
- Will be at a forum prescribed for the purpose if they involve members;
- Where potentially contentious, will be attended by two officers including the Chief Planning Officer or his representative.

A note of the discussion will be taken and be kept on file and made available for inspection at the appropriate time

It will be made clear that the discussions will not bind the Council and that any views expressed are personal and provisional based on the Unitary Development Plan.

It will be made clear that at such meetings all the relevant information may not be at hand and formal consultations with interested parties will also be taking place.

It will be made clear whether or not members or officers will consider the application.

Members of the Development Control Committee should generally avoid meetings with applicants or potential applicants, and should seek officer advice before making any commitment to do so.

4.3 Member Site visits

Site visits can be useful to identify features of a proposal that may be difficult to identify from the plans and supporting material; where there are features of the proposal which are difficult to convey in a written report, or the proposal is particularly contentious. However, site visits may delay an application, and therefore will only be authorised where the expected benefit of so doing is substantial and/or where there are significant and complex policy implications.

The approach taken by Harrow Council is for site visits comprising an organised inspection by the committee members with officer assistance. Informal visits to view the site from the public domain can often be helpful to familiarise members with the issues to be considered, but members should avoid making contact with applicants, property owners or objectors in such circumstances.

Site visits by members alone at the request of applicants or objectors should not be undertaken and may lead to accusations of impartiality and maladministration.

A revised Procedure Note for Member Site Visits was agreed by Development Control Committee on 11 December 2002 and is attached as **Annex 1**.

5. Committee Meetings

5.1 Officer reports to Committee

To ensure that the Council is not accused of inadequate consideration of the issues, or inconsistent decision-making or non-existent reasoning behind a recommendation, the following rules will be followed in the preparation of reports for committee:

- Reports must be accurate and cover, amongst other things, the objections, the views of those consulted, and the officer response to consultations;
- Relevant information should include an outline of the relevant development plan policies; site description, proposal description, relevant planning history, applicant's statement (if any) and an appraisal of all relevant considerations;
- Reports must have a written recommendation;
- Information received after the report was finalised will be reported on the printed addendum circulated at the Committee meeting;
- Oral reporting (except where an update is required) should be avoided and carefully minuted where it is necessary;
- Reports must contain technical appraisals, including references to specific clauses of the UDP, which clearly justify a recommendation;
- If the report recommendation is contrary to the Development Plan, the material considerations that justify the departure must be clearly stated.

5.2 Public representations at Committee

Development Control Committee is held in public and the Council has a procedure for representations by applicants and objectors. The procedure applies only to applications for planning permission and consultations received from adjoining Councils that are to be determined by the Committee where the application is recommended for approval or 'grant'. It does not apply to applications which are recommended for refusal or those to be determined by the Chief Planning Officer under his delegated powers. The case officer dealing with the application will be able to say how the application is being determined and by whom, although in some instances this can change, where, for example, the nominated party member requests an application to be considered by the Committee.

The procedures to be applied are as follows:

- No later than 5.00pm on the day before the meeting, objectors should give the Committee Administrator (Tel: 020 8424 1269) notice of their wish to speak.

The following criteria will be applied:

- only one objector on each relevant planning application may normally address the Committee, but in exceptional circumstances two objectors may be allowed to speak;
- a group of objectors will be asked to nominate a spokesperson;
- the applicant or their agent may only make representations if an objector has addressed the committee (if there is none, the applicant or agent will not be permitted to speak);

- any person making representations may speak for a maximum of three minutes. On major or significant applications five minutes may be allowed, but this will be at the discretion of the committee;
- there will be no further verbal exchanges after the representation though members of the Committee may ask factual questions if clarification is needed.

Where the officer is recommending refusal of an application and the Committee is minded to disagree with that recommendation, the application will be deferred to the next meeting in order to allow renotification of consultees to advise them of the opportunity to make representations as outlined in this procedure.

The Committee Administrator will know whether objectors or applicants have asked to speak on an application, though the only sure way of knowing whether representations from objectors or applicants will be heard is to attend the meeting.

Copies of the agenda and reports for Development Control Committee meetings are available for inspection five clear working days before the meeting. These can be viewed in the Environmental Information Centre, the library next to the Civic Centre and on the Internet at www.harrow.gov.uk.

There is also a deputations procedure which applies to all other business discussed at Development Control Committee.

6. Making the decision

6.1 Making up your mind about planning applications

When members make their decisions at Development Control Committee they must be able to demonstrate that all the relevant facts and arguments have been taken into account. Members must not declare the way they intend to vote or express any opinion on the merits of the application before their attendance, and formal consideration, at the Development Control Committee.

Members should avoid giving a final view on an application before the Development Control meeting, as this may lead to the perception that the member has fettered their discretion. This places the Council at risk from a judicial review of the decision.

Even if a member has no personal or prejudicial interest in the matter, if they take a view on it prior to the Development Control Committee they should not attend the committee or participate in the decision.

A member with no personal or prejudicial interest may:

- Listen to and receive viewpoints from residents and other interested parties;
- Make comments to residents, interested parties, other members or appropriate officers provided they do not prejudice the issue and the member makes clear they are keeping an open mind;
- Seek information through the appropriate channels.

The overriding duty of members is to the whole community not just to the people in their ward, and, taking account of the need to make decisions impartially, members should not favour, or appear to favour, any person, company, group or locality.

6.2 Development proposals submitted by Councillors or Officers of the Council

Serving councillors who act as agents for members of the public or developers pursuing planning matters within the Council must play no part in the decision making process for those proposals.

Similarly, Councillors submitting their own proposals to the Council should play no part in its processing, though they may explain and justify their proposal to an officer in advance of the Development Control Committee meeting in the same way as any other applicant.

Such applications will be reported to Development Control Committee for decision, not determined by Officers.

Two particular sets of circumstances that have caused problems for members in the past are planning applications which involve the land of another member of that councillor's party. It is suggested that:

- i) where a planning application includes land owned by a member of the Council in a member's political party, they clearly have a personal interest in the matter. They should also consider themselves to have a prejudicial interest and not participate in the discussion of the application. This is clearly the safest option for members and ensures there can be no breach of the Code of Conduct;
- ii) If an application is made in respect of land adjacent to or nearby land owned by another councillor within a member's political party, they may be able to argue that they do not have either a personal or a prejudicial interest if they have no knowledge of the scheme, or the impact on the councillor other than that reported by officers, and they make no attempt to discuss the issue with anyone prior to the decision at Committee.

6.3 The party whip and discussions at group meetings

A decision on a Committee planning application will take place at the meeting of the Development Control Committee when all available information is to hand. This does not prevent members of the same party discussing proposed planning applications with each other, but a political group meeting prior to the Committee cannot be used to decide how representatives on the Development Control Committee should vote. The use of the party whip to try to influence the outcome of a planning application may amount to maladministration.

6.4 Planning Applications by the Council in respect of Council land

The Council itself requires planning permission to carry out or authorise development on land it owns. These applications will be treated in the same way as those from private applicants.

On 15 January 2003 the Development Control Committee agreed that applications for minor development of up to 100m² of floorspace on land owned, or where the Council holds an interest, may be determined under the delegated powers of the Chief Planning Officer. This delegation is subject to the proviso that the proposals, in the opinion of the Chief Planning Officer, do not conflict with agreed policies, standards and guidance.

6.5 Reserve members

Where a reserve member attends a Development Control Meeting, that reserve must determine applications on their merits and cannot be mandated by the absent member.

6.6 Decisions contrary to Officer Recommendations

From time to time, Councillors may disagree with the advice of the Chief Planning Officer. In such cases it will be the Members' responsibility to clearly set out the reasons for refusal where the Officer recommendation is for grant. The planning reasons for rejecting the officer's advice will be clearly stated, whatever the recommendation, recorded in the minutes of the meeting and a copy placed on the application file.

The officer must be given the opportunity to explain any implications of the contrary decision.

Where an appeal arises against such a decision officers will support the Development Control Committee in preparing evidence for the appeal.

Where conditions included in an officer report are amended by the Committee, an officer should be asked to draft the new conditions and these will be approved by the Chair and nominated members via the non-Executive Action procedure. The date of the decision in these circumstances will be the date the non-Executive Action is signed by the last signatory.

7. Complaints

Any issues or concerns arising from this Protocol can be raised with the Monitoring Officer, the Chair of Development Control Committee or the Chair of the Council's Standards Committee.

The Urban Living Directorate also has a formal complaints system in operation which can be used if necessary.

Summary

Involving councillors early and throughout the application and determination process leads to better development and better planning decisions.

Councillors should meet with the applicants of strategic schemes during the pre application and determination periods.

Training for all councillors will result in better development, better decisions and better meetings.

Training should be provided for new councillors as well as refresher courses for experienced councillors.

A clear process should be established for keeping councillors well informed of emerging strategic proposals.

Councillors can meet applicants to establish the facts of a scheme. This will not disqualify them from voting, providing they do not express a view on the scheme's merits.

After submission, councillors and applicants should build on contact established in the pre application phase.

Councillors can be briefed on an application by the applicant during the determination period.

Site visits by councillors determining major schemes are an essential part of the determination process.

Councillors should be familiar with a scheme prior to committee and have met with applicants.

Applicants should be able to present to committee and address issues raised by objectors.

The study was sponsored by:



London Communications Agency



Supported by:



Connecting Councillors with Strategic Planning Applications:

A Good Practice Guide for London

November 2007

Increasing complexity in planning applications and policy makes early involvement of councillors critical, especially in strategic planning applications. The benefit to applicants, boroughs and communities is greater certainty and clarity in decision making. This guidance is aimed primarily at borough heads of planning, solicitors and relevant councillors and is designed to help boroughs increase the role of councillors prior to formal decision making.

Government Office for London, London Councils and London First, supported by the Association of London Borough Planning Officers (ALBPO) and sponsored by Argent, British Land and London Communications Agency, commissioned Arup to undertake research into current borough practice with respect to involving councillors in strategic applications, and councillor training. Twenty four boroughs were interviewed. There is a wide variety of practice of how councillors engage with applicants. The research report is downloadable from our websites, addresses for which are shown below. This guidance note, drawn from the research, confirms that it is appropriate and important for councillors to meet applicants in the application process, and when handled correctly this does not disqualify councillors from voting.

This guide combines those practices in London considered to be working well. Ideas are presented for each stage of the application and determination process. We do not seek uniformity of procedures across London.

The guidance deals specifically with the involvement of councillors and does not examine procedures for involving members of the public. This will be covered in borough statements of community involvement (SCI). To ensure transparency in the overall process we recommend that borough SCIs detail how the public will be involved in new processes adopted from this guidance.

The guidance is not exhaustive but highlights key areas where councillors' involvement in the planning process can be maximised. We recommend this guide as a 'menu' of good practice. Boroughs may like to choose options that best fit their individual circumstances. We strongly recommend that all boroughs should have procedures in place which ensure that councillors are well trained and are made aware of strategic schemes before they take their decision at committee.

We also recommend that two other elements should be in place. Every borough should already have a specific protocol or code of conduct for councillors involved in planning, and this should be regularly reviewed. There should also be a regular training programme for councillors, especially those with planning roles.

We hope this guide will help to improve the quality of decisions in London.

Michael Snyder
London Councils

www.londoncouncils.gov.uk



Liz Meek
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Essential training

Training for all councillors will result in better development, better decisions and better meetings.

Training should be provided for new councillors as well as refresher courses for experienced councillors.

Essential training should be provided on borough procedure, councillor code of conduct/borough protocol and planning policy. This should be provided to new councillors and to refresh the knowledge of existing councillors.

Councillors should be specifically trained in how to engage with applicants to ensure they get the most from the process without prejudicing themselves, e.g. asking factual questions. Most importantly, committee members should not debate the merits of a scheme with applicants.

The pace of change in the planning system is expanding the range of subjects with which all councillors, whether on cabinet, the planning committee or as ward councillors, need to be familiar and up-to-date.

A commitment to councillor training in the following key areas is considered best practice:

- Planning protocols, codes of conduct, probity and scrutiny;
- Development plan: London Plan and UDP/LDF policy;
- PPS and material considerations;
- Planning law and practice;
- Planning obligations (Section 106 agreements and tariffs) and planning conditions;
- Development economics and viability;
- Sustainable design; and
- Appeals: their implications and costs.

Training providers

Whilst training can be provided successfully in-house, in association with the borough solicitor, there may be benefit in using external training providers or working with other borough colleagues.

The Planning Advisory Service (www.pas.gov.uk) is a portal to external training.

Pre Application Involvement

Essential to allow all councillors an early opportunity to ask questions, raise issues and to meet applicants.

Contact between councillors and officers

A clear process should be established for keeping councillors well informed of emerging strategic proposals.

- Regular meetings between the head of planning and the chair and vice-chair of the planning committee, to keep them up to date with emerging developments. These may involve the leader, the cabinet member for planning and the chief executive on major initiatives.
- The head of planning meets the leader and the relevant cabinet member(s) on specific proposals. Discussion should focus on the facts of the scheme.
- Planning committee members should be kept informed about the facts of significant emerging development.
- Officers brief ward councillors on the facts of significant proposals.

Contact between councillors and applicants

Councillors can meet applicants to establish the facts of a scheme. This will not disqualify them from voting, providing they do not express a view on the scheme's merits.

Contact between councillors and applicants should be encouraged in the pre application phase and should be supported by a clear code of councillor conduct.

More formal contact between applicants and councillors can usually be arranged by officers. A selection of best practice is highlighted below. Officers should highlight issues, discussion should focus on facts, and minutes should be taken. Debate should not be entered into on the merits of a scheme. In all cases, the borough protocol should clearly indicate how members of the public will be involved in the overall process.

- **Ward councillor briefing:** run by officers, attended by applicants. The facts of a scheme are discussed. Councillors respond only to the facts of the scheme which are communicated to applicants by officers.
- **Development forum:** for strategic schemes, chaired by the head of planning or planning committee chair and attended by a selection of councillors, including ward councillors and representatives of different parties. Applicants make a presentation and ward councillors, but not planning committee members, ask questions of the applicant.
- **Planning committee member briefing:** all planning committee members are invited to a site visit at which applicants make a presentation. The briefing continues at a meeting where the applicant presents the scheme. Officers summarise policy issues, third party views and other issues for consideration.
- **Senior member briefing:** senior councillors (executive members, cabinet and lead members), but not planning committee members, meet applicants and external groups. Subsequently they brief colleagues on the facts of the case – no value judgements are made. On strategic schemes this may involve the full council.

Post Submission Involvement

Councillors can continue to ask further questions and should be informed of progress by officers

Presentations by applicants

After submission, councillors and applicants should build on contact established in the pre application phase.

Councillors can be briefed on an application by the applicant during the determination period.

Information-sharing meetings, attended by councillors and officers where the applicant presents and answers factual questions, are an important part of the determination process. Regard should be given to the borough protocol. Formal minutes should be prepared and reproduced in the officer's report.

Planning panel

Formal meeting held between councillors (possibly a sub-group of the planning committee), officers, applicants and third parties. The meeting can take place at or near the proposed development site. Third parties may ask questions, preferably tabled in advance.

Planning forum

For strategic cases, a forum is convened and chaired by the head of planning, shortly after the application has been submitted. The full planning committee is invited with local ward councillors and third parties. Questions are taken by the applicant from all participants.

Site visits

Site visits by councillors determining strategic schemes are an essential part of the determination process.

Councillors must be familiar with the site before decision making. Site visits by councillors are best practice and are essential in the understanding and consideration of strategic applications. They should take place prior to the committee meeting so that councillors are familiar with context and characteristics.

- All major application sites should be identified for a visit;
- All the planning committee must be invited;
- Applicants should be invited to make a factual presentation and respond to questions;
- If involved in the site visit, third parties should only attend as observers to avoid a debate on the proposal's merits;
- Ward councillors should be involved;
- Councillors should only vote where they have a good understanding of the site and the proposal prior to the committee meeting.

Involvement at Committee and Decision Making

The committee process

Councillors should be familiar with a scheme prior to committee and have met with applicants.

Applicants should be able to present to committee and address issues raised by objectors.

Prior to committee

Councillors should receive essential planning training before they determine applications.

Councillors should be aware of the scheme and should have had the opportunity to raise issues at an early stage whether pre application, post submission, or both.

Councillors should be familiar with the site and have undertaken a site visit.

Pre-committee meetings between officers and the chair (and other senior members) enable strategic applications to be highlighted and procedural committee issues agreed.

The protocol should include a proper opportunity for applicants to consider and respond to objections.

Given the time constraints of committee meetings, the most complex schemes may merit a special meeting, or a series of meetings, to enable the issues to be discussed in appropriate detail. One of the meetings may be held at the proposed site.

At committee

Clear protocols concerning proceedings at planning committee are essential.

- Councillors should be discouraged from requesting a site visit once the application gets to committee and should not request a deferral if they have not attended a pre-committee meeting or an organised site visit.
- Committee members should be present for the entire debate to be able to vote.
- Ward councillors should have the same speaking rights as members of the public.
- The borough protocol / code of conduct should give clear guidance on what constitutes a conflict of interest. To determine validity in advance of the committee meeting, declarations of interest should be raised formally with the borough solicitor or the chief planning officer.