



Haringey Council

Report for:	Regulatory Committee	Item number	
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Title:	HOW THE PLANNING APPLICATION PROCESS WORKS : (including stages / timescales and what policies / assessments are made)
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Report authorised by :	Marc Dorfman Assistant Director Planning Regeneration & Economy
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Lead Officer:	Vincent Maher Ext: 5507
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Ward(s) affected: N/A	Report for Key/Non Key Decision: N/A
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1. Describe the issue under consideration

This report provides information on how the planning application process works once an application is received particularly centred on showing how an application is assessed, the timescales and the manner in which a decision is made in the context of National and local planning policy.

2. Recommendation

That the Regulatory Committee consider discuss the information contained therein

3. Background information

The Members of the Planning Sub Committee asked for a report to be presented to Regulatory Committee to explain how planning applications are processed by officers. The following report takes the committee through the process clarifying the timescales

and stages of processing a planning application. The report also explains how officers assess applications having regard to the development plan, other non-development plan policies and other material considerations.

5. Comments of the Head of Legal Services and Legal Implications

5.1 There are no specific legal implications arising from this report.

6. Comments of the Chief Financial Officer and Financial Implications

6.1 There are no financial implications.

7. Equalities and Community Cohesion Comments

7.1 The Council has a public sector equality duty under S149 of the Equality Act 2010 to have due regard to need to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who those characteristics and people who do not.

7.2 Policy and Equalities Team have been consulted in the preparation of this report and they comment that the proposals outlined in this report carry no apparent implications for the any aspect of duty outlined above.

1. Introduction

- 1.1 The planning process exists to regulate the use of land and buildings. An application for planning permission is required to be made for the erection of a building or extension or a material change of use of land or for any other form of development which falls within the definition of development.
- 1.2 It is also necessary to make applications for other types of development such as for Listed Building Consent, Advertisement Consent and other forms of development such as telecommunication installations or works to trees covered by a Tree Preservation Order which do not fall within permitted development.

2. TYPES OF APPLICATIONS RECEIVED

- 2.1 The applications which the Council determines in its role as the local planning authority fall under four categories. The three most important categories which have been historically reported to DCLG are “majors”; “minors”; and “others”. “Majors” are defined as 10 or more dwellings or non residential developments exceeding 1000 square metres; “minors” are development of one to nine dwellings or smaller scale non-residential development. “Others” include: householder applications, changes of use, advertisements and works to listed buildings. The Council is also responsible for determining a number of other “PS0” cases such as conditions pursuant to the grant of planning permission or works to trees affected by Tree Preservation Orders. The Council receives about 350 such applications each year.
- 2.2 **Relevant legal considerations in casework**
- 2.3 The Town and Country Planning 1990 Act (the Act) is the principal piece of legislation that determines if planning permission is required. Section 55 of the Act defines the term “development” as “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”. The Town and Country Planning General Permitted Development Order 1995 (as amended), the Town and Country Planning (Use Classes) Order 1987 (as amended) and caselaw also determine whether work needs planning permission. Any works or changes of use which fall within this definition require an application for planning permission to be made to the Local Planning Authority.
- 2.4 When determining planning applications, the decision maker’s key responsibility is to determine the application in accordance with the development plan unless **material considerations** indicate otherwise. For the purposes of the Act, the development plan in Haringey comprises the London Plan 2011 and the Haringey Unitary Development Plan 2006 (the UDP). Much of the UDP will be replaced by the Haringey Local Plan following its adoption later this month. The Council’s various Supplementary Planning Documents, Supplementary Planning Guidance notes and other publications such as Conservation Area Appraisals are important documents in that they support the Council’s development plan and clarify how development plan policy might be applied but they do not have development plan status.
- 2.5 It is important that members appreciate that the test for decision makers requires us also to take account of material considerations too. The courts have determined that

any consideration is capable of being a material consideration and thus the term “material considerations” can be very broad in its application

The most usual material considerations that officers will typically have to take account of include: the National Planning Policy Framework (NPPF) which sets out the Government’s planning policies for England and how these are expected to be applied; the presence of similar developments nearby; and human rights issues.

- 2.6 In conservation areas, decision makers have an additional responsibility under the Planning (Listed Buildings and Conservation Areas) Act 1990 pay special attention to the desirability of preserving or enhancing the character or appearance of that area. This obligation also applies to development outside that could have an impact on the conservation area
- 2.7 Officers will sometimes consider applications for planning permission to listed buildings and concurrent applications for listed building consent. In such cases, we must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses
- 2.8 The setting is often an essential part of the building's character, especially if a garden or grounds have been laid out to complement its design or function.

2.9 Timescales for decisions

- 2.10 There is a statutory obligation on the local planning authority to determine most applications within eight weeks, failing which the applicant has the right to appeal to the Planning Inspectorate. The three other exceptions are: “majors” where the timescale is extended to 13 weeks (16 to 20 cases a year); applications; sensitive applications that need an Environmental Impact Assessment (EIA) where the timescale is 16 weeks; and other major applications where the developer has signed a “Planning Performance Agreement” specifying a longer timescale to determine the application.
- 2.11 The following sections identify how a range of cases are processed.

3. PLANNING APPLICATIONS PROCESS STAGES

- 3.1 There are broadly six stages for handling most of our applications. These are summarised as:
- Pre-application advice
 - Submission of application for planning permission
 - Consultation and Assessment
 - Report and recommendations
 - Decision (Delegated/Committee and Decision Notice)
 - Appeal against refusal

4 PRE-APPLICATION ADVICE

- 4.1 Officers advise members of the public at its planning reception at River Park House and by phone. We operate a fee earning planning advice service on some major applications. Advice offered is not binding on the decision maker, especially when a case goes to the Planning Sub-Committee, but sets a clear steer for the major issues a case is likely to raise and whether the application addresses them.

4.2 The promoters of some major schemes (eg former St Luke's hospital site) will engage with local residents to assess and/or take on board local views before the application is submitted.

5. SUBMISSION OF A PLANNING APPLICATION

5.1 Receipt of the application

5.2 When an application is submitted it includes a description of the proposed development, drawings showing the proposal and appropriate supporting documents eg a design and access statement. The application is then assessed to see if it is valid. This means it is considered against a check list of requirements to confirm that it contains enough information to ensure that the application can be understood and that a decision can be made in relation to the application. Currently, we have one member of staff who both validates and allocates work. We will be trialling a new system in February whereby a team leader of the Head of Development Management allocates cases and steers officers at an early stage. This will help us better manage case allocation by ensuring that staff with appropriate skills or specific knowledge of a site receive the case.

5.3 If the application has been assessed as valid it will be registered and the application process will start at this point. The length of time an application takes to deal with is determined from this date. If the application is not considered valid, the applicant will be contacted and asked to provide the missing information which if received will lead to its validation and registration at that point in time. The time taken for determination would then start from this point.

5.4 Once the application is registered internal and external consultations are carried out. Local residents, Ward Councillors and Amenity Groups and Statutory Consultees are consulted and asked for their views in accordance with the Council's Statement of Community Involvement. Any responses received are attached to the electronic file and taken into account in the assessment of the application before a decision is made. The comments are normally referred to in the officers report either specifically or as part of the assessment of the issue or issues raised. In the case of the Committee Report on cases decided by Committee where the comments and the officers responses to them are included as an Appendix to the report.

6. CONSULTATION AND ASSESSMENT

6.1 First receipt of the case

6.2 Upon receipt of each case there is an initial assessment by the case officer. The officer will check the application type of application eg Householder, Change of use, Certificate of Lawfulness, Advertisement Consent, Listed Building Consent, the description of the development proposed and become familiar with all the elements of the proposal. The officer will check to see if the consultations carried out relate to the development and check that the drawings and the description of the development accurately relate to one another. The description of development and the drawings are the basis on which any decision is made and the basis on which the development will be judged if approved and carried out.

6.3 The officer will check and assess the planning history of the site. This history describes what previous planning permissions / refusals there might have been at

the property. Previous decisions are a material consideration which must be taken into account in dealing with any particular planning application and can also be important if assessing an application if it is a revised proposal following an earlier refusal. Previous appeal decisions by the Planning Inspectorate are also very important in relation to subsequent planning applications.

- 6.4 The officer will identify the relevant planning policies, national and local and check the planning constraints applicable to the site, normally geographical eg Conservation Area or heritage designation e.g a Listed Building.

7. Site Visit

- 7.1 The officer will visit the site to gain familiarity with the site and its surroundings, understand the topography and relationship with adjoining properties. S/he will take photographs and appropriate notes, check the consultations and consider any consultation comments already received or consider on what basis comments may be received .

8. REPORT AND RECOMMENDATIONS

- 8.1 The officer will assess the proposal on its merits on the basis of ALL the information gathered including the description of development, drawings , submitted documents and photos , planning policy and planning constraints, information from the site visit, consultation responses and decide whether to recommend approval , seek amendment by negotiation with the applicant, or recommend refusal.
- 8.2 Once the case is ready to be assessed and a recommendation put forward for decision the officer will create a report using the standard template for either a delegated case or a report for Committee. The purpose of the template is to act as a guide to ensure that all the relevant matters are presented in an appropriate manner in line with best practice clearly and consistently prior to a decision being made and that the report gives clear and comprehensive reasons for the decision.
- 8.3 This is not only important at the point of decision making but also as a part of the recording of the decision for the future which can be referred back to as part of the planning history of the site. This is so that it is clear to those that follow why the decision was made. This is important as it aids consistent decision making in an incremental decision making process where it is necessary to be able to compare decisions made over longer periods of time.
- 8.4 The officer's report has a function to record of the basis upon which the decision was made and for information purposes particularly in relation to any appeal to the planning inspectorate or for future reference should there be a dispute about what was decided and the matter becomes the subject of planning enforcement action.
- 8.5 In relation to decision making the reports prime function is to set out the relevant planning policies and the identify all the planning issues which it is considered arise from the particular case under consideration.
- 8.6 The assessment section of the report is the most important part of the report. In the context of development plan and other material considerations such as the NPPF and

responses from consultation, the report identifies the main planning issues on which the case turns and then discusses them in full in relation to the proposal.

- 8.7 The assessment section analyses each issue in turn in its planning policy context. The assessment describes the issue and describes how it is considered in relation the relevant planning policy or policies that are applicable and to any criteria that have to be met in order to comply with the intention of the policy. If the policy is considered not to be complied with or is only partly complied with then the report would normally describe the extent of non compliance and how that might be mitigated by other factors or might lead to a recommendation for refusal on this particular matter.
- 8.8 It can be the case that one issue may need to be weighed against the effects of another issue in relation to the same proposal and this may mean that a development may be considered satisfactory even if not all the issues are entirely in compliance with planning policy. Other material planning considerations will, on occasion, outweigh planning policy.
- 8.9 The report is expected to contain reasoned argument and refer to evidence to support its assertions about whether or not a particular development is in compliance with the intention of planning policy. It should be noted also that it is possible for a development to result in some harm and for that to be an acceptable consequence. What is under consideration is the degree of harm that might result and whether or not in the particular circumstances of the case it is sufficiently serious to decide to recommend refusal. It must be borne in mind further that the applicant would has a right of appeal to the planning inspectorate if the application were refused . The planning inspector would need to see evidence to support the decision to refuse in relation to the extent of the harm considered to be caused. If the planning inspector does not feel that sufficient evidence has been provided the appeal may be won by the applicant who has the right to apply for costs in against the Council if the Council is considered to have behaved unreasonably.

9. **Householder case example**

- 9.1 In relation to a typical householder application (for example, an extension to a house), the key issues would normally be:
- the appearance of the proposed extension relative to the existing house
 - the impact of the size/design of the extension in combination with the existing house on the visual amenities of the street scene
 - the impact of the extension on the amenity of the adjoining properties,
 - loss of light (daylight or sunlight)
 - loss of privacy / overlooking ,
 - loss of outlook / visual intrusion.
- 9.2 Each assessment is guided by reference to the appropriate individual local planning policies. In this case these are Haringey Unitary Plan Development (UDP) Policies UD 3 General Principles, UD4 Quality Design and Haringey Supplementary Planning Guidance (SPG) 1 a and Haringey Housing Supplementary Planning Document (SPD) adopted 2008 .
- 9.3 In the planning process each decision must be made on its merits and in planning terms each assessment is unique to each individual proposal. This means that each

case is individually assessed on the individual circumstances of the case in the context of the guidance given in the relevant planning policies.

- 9.4 Normally in relation to house holder applications the extension should be subordinate to the original house not project beyond a certain stated depth and if beyond that depth not result in undue harm in relation to the amenities of the adjoining occupiers as a result of say loss of light or visual intrusion.
- 9.5 **Change of use from retail (A1) to restaurant (A3) or Public House (A4) or Take away (A5) Example.**
- 9.6 The change of use of a shop to a restaurant is a material change of use which requires planning permission.. The key issues in such a case are normally the effect of the change on the vitality and viability of the shopping area in which the property is located.
- 9.7 This effect is more significant if the shop is located in a Town Centre rather than it being a local shop not contained within a defined retail area and different planning policies concerning changes of use away from retail apply in these different locations.
- 9.8 A change of use to a restaurant also involves assessing any potential loss of amenity in relation to adjoining properties and the street in general. Such matters may include noise, nuisance and disturbance as a result of the attraction of people; impacts on local people's quality of life from late night smells and fumes, litter / refuse storage and collection siting of any proposed extraction system; music from within the premises; car parking provision and parking stress.
- 9.9 If it is decided to recommend that planning permission be granted for the change of use then these matters would normally be controlled by planning conditions attached to the planning permission such as a limit on the hours of use; controls on sound insulation; and agreement on measures of waste storage and collection.
- 9.10 The most relevant local planning policies applicable are Haringey UDP policies UD3 General Principles, UD7 Waste storage, TCR 1 Development in Town and Local Shopping Centres, TCR3 Protection of Shops in Town Centres, TCR 4 Protection of Local Shops dependant on the shops location.
- 9.11 Also applicable in relation to the amenity issues are UDP Policies TCR5 Restaurants and Cafes, A4 Drinking Establishments and A5 Hot Food Takeaways. Also relevant is Supplementary Planning Guidance Note SPG 6c Restaurants / Hot Food Premises (Use Class A3): Ventilation and Extraction
- 10.0 **Certificate of Lawfulness**
- 10.1 Typically, we receive around 300 applications a year seeking our confirmation that a use or development does not need planning permission or that a use or development that has already taken place is immune from enforcement because it has been built for more than four years or where a change of use (other than to a dwelling) has taken place for more than 10 years.
- 10.2 In this type of application the application is assessed and determined on the basis of written evidence submitted by the applicant rather than development plan policy..

The Council has a protocol for determining such applications which sets out guidance as to the basis on which such decisions are made.

- 10.3 A locally contentious type of application is when we are asked to issue certificates retrospectively for flats or HMOs. In such applications, officers will review the evidence submitted by the applicant and will also check other records such as Council Tax records and Planning Enforcement History and Building Control records. Sworn Affidavits submitted in support are also verified with the solicitor who was present and in whose name the document was prepared.
- 10.4 Local residents are consulted in relation this type of application. Any comments received are taken into account. If there is no evidence that would directly contradict the evidence provided by the applicant and the council has no contradictory evidence of its own and the evidence submitted by the applicant is found to be accurate in relation to the tests referred to above then a Certificate of Lawfulness would normally be granted.

11. Advertisement Consent

- 11.1 Applications for the display of advertisements are submitted in relation to the Advertisement Regulations. The regulations cover a wide range of advertisements and signs including poster boards and notices placards; fascia signs; projecting signs on shop fronts. Many types of advertisement (for example, estate agent signs) benefit from what is called “deemed consent” which means that they do not need advertisement consent.
- 11.2 Where advertisements require consent they are considered and assessed in relation to only two factors visual amenity and public safety. The effect of advertisements on the visual amenities of the street scene can be considerable especially when an advertisement is illuminated or proposed to be situated in a Conservation Area.
- 11.3 Public safety concerns typically focus on the impact of a proposal on highway safety. We obtain the advice of our Transportation Team and on occasion we will consult Transport for London on projects affecting the A10.
- 11.4 The Town and Country Planning (Control of Advertisement) Regulations 2007 make clear that advertisements can only be determined having regard to amenity and public safety. Local planning policies are not key determinants in such cases but officers will have regard to Haringey UDP policy UD10 Advertisements as well as Haringey Supplementary Planning Guidance Note SPG 1a Design Guidance, Haringey SPG 6a Shop front signage and Security and Haringey SPG 6b Advertisements. Where advertisements require consent in Conservation Areas then policies CSV1 Development in Conservation Areas and CSV5 Alterations and Extensions in Conservation Areas are also relevant considerations.

12. Major Site Mixed Use Development

- 12.1 “Major” proposals are defined as applications for 10 or more dwellings or commercial development over 1000 sq metres. Despite this definition the size and extent of a Major application can vary significantly and be much larger and more significant locally than the minimum threshold described above would suggest. Examples of significant major development in the borough include the Spurs Stadium site and the

former GLS Depot site in Ferry Lane which will be home to over 1200 households and the Haringey Heartlands project in Wood Green.

- 12.2 The extra timescale to determine these cases reflects the significantly greater amount of information submitted (for example, transport studies, urban design assessments and other ecological information). Some major proposals require the submission of an Environmental Impact Assessment (EIA) which separately looks at the many impacts a large development can have on its locality in terms of air quality, traffic congestion, public transport, nature conservation, flooding, sustainability etc.
- 12.3 Major applications are now commonly accompanied by viability assessments particularly in relation to negotiations for financial contributions sought under Section 106 of the Act. The viability assessment is used to help determine the extent to which a particular development can contribute to local requirements such as a contribution to affordable housing, education, local public transport improvements.
- 12.4 Large applications are submitted as outline applications where planning matters related to the application are reserved for consideration in the future, such as detailed design. Normally in these situations the application is still accompanied by supporting documents very similar in nature to the documents received in relation to full applications.
- 12.5 Outline applications normally also include parameter plans which set the general layout of the site, the road layout and footprint of individual blocks of development and the maximum storey heights proposed. Illustrative plans and photographs and 3D illustrations and photomontages may also be submitted to illustrate the design concept and materials that might eventually be proposed to aid consideration and decision making. These documents do not form a part of any approval and remain outside the decision.
- 12.6 Larger major applications are often submitted in the context of an adopted planning brief or Master Plan for the site which has as part of its adoption already been consulted upon with local residents and adopted subsequently by the Council as a guide as to how it is expected that the land will be developed in the future.
- 12.7 Furthermore, it is normal as it with all major applications for there to have been pre application discussions between Council Officers and the applicants and it is also normal for there to have been Public exhibitions and presentations by the applicants prior to submission to help explain discuss and modify the proposed application before submission. The application is also likely to have been presented to the Haringey Design Panel for comment and feedback on Design issues prior to submission.
- 12.8 Upon receipt the application is validated in the normal way to the usual timetable. Consultation letters are sent out to local residents and any nearby adjoining Borough. A Development Management Forum is arranged. Consultation with a wide range of statutory consultees takes place. The London Mayor / GLA and if appropriate DCLG are consulted. These bodies can have powers of direction / call in over any decision proposed to be made by the Council.
- 12.9 A large application has to be assessed in the context of a wide range of National and Local Planning Policy and supplementary planning guidance and emerging planning

policy which may not have reached a stage where it can be given any significant weight in the decision making process.

- 12.10 Such developments will be determined having regard to the development and a wide range of other material considerations and officers will often have to consider proposals that may demonstrate high levels of compliance with one policy and lower levels with others and will require careful balancing of priorities. Anticipating the imminent adoption of the Haringey Local Plan, staff are already considering major cases against this Plan.
- 12.11 A Major application, particularly a large one is also assessed in relation to a significant range of individual planning issues. Sometimes it is necessary to reconcile conflicting policies and issues and this is done on its merits within the body of the assessment section of the report based on a clear and careful discussion of the issues in relation to planning policy, evidence of the effects and other material conditions. Issues referred to in the report might be principle of the use, employment provision, urban design, sustainable design and construction traffic and parking and public transport provision
- 12.12 A major application is normally submitted in the context of the requirement to negotiate and agree a section 106 agreement. In the current economic climate this is often negotiated in the context of a viability assessment which sets out the amount it is considered the development can afford to contribute to local infrastructure and still be able to proceed in financial terms. Viability assessments on large schemes are normally assessed independently by a neutral professional outside expert but this does not always have to be the case if there is sufficient internal expertise.
- 12.13 During the course of the application process negotiations take place to first establish what planning matters should be included in the agreement and secondly what that contribution should be. The outcome of the discussions and the broad agreement reached is then reported to Committee in the Committee Report for the Committee to decide as part of its decision as to whether or not to grant planning permission subject to the agreement. If the agreement is subsequently changed it is normal for a variation to be sought normally to be reported back to the Committee to be agreed.
- 12.14 Most Major applications are now subject to the Mayoral Community Infrastructure Levy (CIL) and will soon be the subject of the Haringey Local CIL which will commence in the near future.
- 12.15 All Major cases are assessed in relation to responses to public consultation the responses are reported in detail in the report to the Planning Sub Committee and a detailed response is set in a consultation appendix to the Committee report.
- 12.16 All applications are assessed in relation to their effects in relation to equalities as defined in Section 149 of the Equalities Act 2010. Major applications may be the subject of a separate or independent Equalities Assessment which is normally reported to Planning Sub Committee for consideration as part of the officers report to Committee. The officer's report will also put forward a list of planning conditions as part of the recommendation any planning permission granted would be subject to these conditions being complied with, particularly the pre commencement conditions which must be complied with prior the commencement of the development.

13. Re consultation on amendments

- 13.1 If the proposals are changed significantly as result of negotiation then it may be appropriate to re consult the neighbours and seek their comments on the changes. Additional comments are attached electronically to the case and are referred to in the report before a decision is made.

14 DECISION

- 14.1 The finished report which contains a recommendation to approve or refuse is normally considered by one of the Team Leaders or the Head of Development Management or is reported to the Planning Sub – Committee for decision where officers do not have delegated powers to make a decision.
- 14.2 Many of our larger planning applications will be granted subject to conditions such as a requirement that building samples be submitted. Officers discharge these conditions under delegated powers.

15. APPEAL AGANIST REFUSAL

- 15.1 The Council makes over 2,100 decisions on planning applications and other matters. It typically approves over 80% of these a year. Some applicants will submit revised schemes to overcome the reason for refusal. Others will appeal. Typically, we receive between 85 and 125 appeals a year.
- 15.2 Some applicants will lodge appeals if an application is not determined within the relevant eight, 13 or 16 week timescale. The vast majority of these appeals will be determined by written representations where officers write rebuttals to the appellant's grounds of appeal. Officers will also on occasion attend hearings or public inquiries.

Appendix 1 Practice note for assessing applications for certificates of lawfulness

PRACTICE NOTE FOR DEVELOPMENT CONTROL MANUAL

CONSULTATION AND ASSESSMENT OF CERTIFICATES OF LAWFULNESS FOR EXISTING USE.

WITH PARTICULAR REFERENCE TO FLAT CONVERSION AND HMO'S

Introduction

There is concern that some applications for Certificates of Lawfulness of existing use for self contained flats, non self-contained flats, and HMO's, have been supported by unsatisfactory documentary evidence, in a few cases possibly false documents. Planning Officers dealing with such applications, and officers doing validation and consultation, should observe the following procedure;-

A. VALIDATION AND CONSULTATION

At validation stage: validation officers should check that there are no Enforcement notices in force on the property. If there are it should be discussed with Head of Planning Enforcement Team or Team Leader in Development Management

Consultation: On applications for Certificates of Lawfulness for Existing Use, whether it be for flats, HMO's or any other claimed existing use (including retail, commercial or community uses) the following consultation should be carried out using the special consultation letter:-

For flats, HMO's, consultation should include the property itself, (including the individual flats within the property) two properties on either side, three properties opposite, three to the rear (i.e. the property itself and 10 properties). If adjacent properties are in flats, each flat within the property should be consulted. A special consultation letter is to be used which makes it clear that

the matters for consideration are factual ones on the history of use of the property, not the planning merits of the use or policy consideration.

Ward Members to be consulted.

Internal consultation; Building Control

Planning Enforcement.

Housing Improvement (Private Sector)

B. Documentation

NOTE; Except in the case of Council Tax Records, where officers can make internal checks, all other documents should be originals rather than photocopies.

For conversions and HMO's application should be accompanied by at least 3 out of 5 of the following documents:-

- Sworn Affidavit from some one who has owned, lived in, been a neighbour to, or known the property for the requisite number of years.
- Evidence in the form of tenancy agreements for each of the flats for the appropriate years; or copies of deeds of sale if flats have been sold rather than rented.
- Evidence in the form of utility bills e.g. Gas, Electric, or Water for each of the flats claimed to exist; or letter from utility company confirming when supply started.
- Housing Benefit documents, covering the appropriate years. These should be very carefully checked to ensure there has been no manual alteration e.g. insertion of flat numbers or letters by hand; and that correct headed paper has been used.
- Council Tax records

Evidence that the flats have been listed separately in Council Tax Records for at least 4 years.

NOTE: If the decision is partly dependent on Utility Bills or Housing Benefits as evidence, then the Case Officer should check, by phone or e-mail, with either the utility company or Housing Benefits, that the documents supplied are genuine, as it is in these areas where there is suspicion of some unsound documents being supplied.

- C. Case officers should check Planning History on I-Plan to ensure there is no conflict between the evidence supplied, and records of planning permission. The absence of any planning history does not mean that the evidence submitted with current application is necessarily flawed.
- D. Case officers should check Council Tax records for converted properties and HMO's. if Council Tax shows rates as separate flats or HMO for the requisite number of years, that would be very positive evidence in support of Certificate of Lawfulness. Absence of Council Tax record as flats does not mean that the application should be refused if other evidence is sufficient on the balance of probability: there is no requirement in planning law to have a property correctly rated for purposes of Council Tax.
- E. Case officers should check either electronically or by direct consultation with Planning Enforcement Team, and Building Control that there are no outstanding Planning Enforcement investigations under way in respect of the property and no Enforcement Notices in force.

- F. If above evidence is clear and there are no reasons to doubt the authenticity of the documents, or the continuity of the use for either 4 or 10 years, then the certificate should be granted. If evidence is manifestly lacking, the Certificate should be refused, and the reasons stated in the Decision Notice. In cases of doubt, refer to Team Leaders or Heads of Development Management; who if necessary will seek a legal opinion.
- G. The above procedures apply to Certificate of Lawfulness of Existing Use. For Certificates for Existing Operational Development (Buildings or Structures) there should be sufficient document evidence in the form of sworn affidavits, original and dated builders invoices (not photocopies); dated photographs; or original dated plans, as will clearly establish that the structure or building has been existent for over 4 years.
- H. For Certificates of Lawful Use or Development Proposed; the above documentary evidence is not required: what is needed here is accurate plans.
- I. Site Visits will be required in many cases to check that the number of flats on the site is as described in the application.

Paul Tomkins

12 August ; Revised 24 September 2009 and 14 October 2009.

Appendix 2 Practice note on Committee decision making procedures

LONDON BOROUGH OF HARINGEY Planning Sub - Committee

SUMMARY OF PROCEDURE

CONTENTS

- Committee Time, Place and Purpose
 - Agenda and Who Speaks
 - Publishing the Agenda
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 - Planning Application Report
 - Decision Process
 - a) Officer Presentation
 - b) Members Question the Officer
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 - d) Committee looks at Display
 - e) Members Question the Officer Again
 - f) Final Member Comments and Questions
 - g) Vote/Agree on Recommendation and Final Decision

 - Public Consultation/Comments at the “last minute”
 - Agreeing Committee Meeting Decisions and Producing Authorisations
 - Respecting Superior Planning Authorities
-

Committee Usually Starts at 7pm in the Civic Centre. It is a Public Meeting

1. The Chair starts the Committee on time and welcomes Committee Members, Officers, the public and other Councillors. In the event that the Chair is not present, the Vice Chair will take the Chair, and in the absence of both the Chair and Vice Chair of the Sub Committee, nominations for Chair are sought from the Committee and a Chair appointed by vote if more than one nomination is made. She/he explains the meeting is a public meeting to consider planning applications and related matters. The Committee is filmed and needs to be carried out in an orderly and fair manner. There are invited speakers, other wise the public gallery is very welcome but is asked to sit and listen respectfully.

Agenda, Who speaks at Committee and How to Request to Speak

2. The Planning Sub Committee Agenda (contents list and reports) sets out the items and sites that will be dealt with at the Committee Meeting. In addition to Committee Members and Officers, the Chair will usually allow a number of objectors and supporters to speak for a short time on

each application site and be questioned by Committee Members. Members of the public are not allowed to speak. Those wishing to speak at Committee must record their request in writing well before Committee begins, at the Committee Meeting venue.

Publishing the Agenda

3. Planning Sub Committee Agenda is published 5 days before Planning Sub Committee on the Council's Website. This 5 days not including weekends and the day of the Committee.

Who sits on Planning Committee

4. Planning Sub Committee is normally made up of 9 Councillors from the 2 main political parties with the Chair having a casting vote and the Chair and Vice Chair are from the majority party.

Agenda Items and Planning Applications

5. The Committee usually deals with a number of performance items before it considers planning applications. These include: speed of applications; levels of approvals/refusals; appeals; building control; enforcement and tree preservation orders. Special Planning Sub Committee Meetings are usually set up to deal with extra business on major applications when more time is needed.

Public Consultation and Comments and Committee Speaking

6. Before Planning Sub Committee - public consultation carried out during the application process, (neighbourhood letters and public meetings on occasions – all of which are summarised in the Officer's assessment report, in the Agenda). At Planning Sub Committee the Chair will usually allow a number of objectors and supporters of a planning application to speak. It is normal for the Chair to allow only 2/3 to speak "against" and then "for" each scheme. Each side is allowed an equal length of time, usually up to 6 minutes each. On Special Planning Sub Committee items the Chair can exceptionally allow a further time period (e.g. 15-30 mins) for objections and then for support. Members of the public (not speaking) can sit and listen to proceedings in the public gallery. It is important that Members of the public allow the Committee process and discussion to happen without interruption. Local Councillors and/or Cabinet Members can speak for up to 3 minutes each for or against application schemes at Planning Sub Committee or on behalf of constituents, over and above any time limit for other speakers.

How the Planning Application Report is set out

7. Planning application assessments and recommendations are set out in case reports by Officers in Committee papers. A summary of the scheme and recommendation is set out at the front of the report. The report sets out:
 - Summary (site, description, application and recommendation)
 - planning history
 - planning policy for the scheme to be tested against
 - consultation responses (statutory, other council services, community groups and neighbours)
 - an assessment of the application by the planning officer
 - conclusions
 - recommendations

- “legal agreements and conditions” if the recommendation is for approval
- “reasons” if the recommendation is to refuse.

Decision Process

A) Officer Presentation

8. The Committee deliberations will begin with the Officer presenting the report. He/she will address the Committee (& public) and summarise the recommendations often using a PowerPoint Presentation.
 - There will always be copies of the key plans on display boards in the Committee Room.
 - Sometimes there will be pictures and models.

B) Member Questions of Officers

9. Committee Members can then ask Officer questions and points of clarification.

C) Objectors and Supports/Applicant Speak and Member Questions

10. Next – registered objectors and then supporters (including the applicant) – are allowed to speak – guided by the Chair. Local Councillors and/or Cabinet Members can speak for up to 3 minutes each for or against application schemes at Planning Sub Committee or on behalf of constituents, over and above any time limit for other speakers. After each “set” of objectors/supports – the Chair will invite Committee Members to ask them questions and points of clarification.
11. If there are no objectors – supporters and applicants will not be allowed to speak.

D) Committee Looks at Display Material

12. The Chair will then invite Committee Members to look at the display materials in the Committee Room. The Chair will also invite the objectors and supporters if there are not too many. The Officer will present the delay/drawings and facilitate questions and answers.

E) Committee Members again ask Officers Further Questions

13. The Chair will invite Committee Members and Officers to return to the Committee seats and invite the Officer to summarise the discussion at the display materials. The Chair will ask Committee Members if they have any final questions or points of clarification for the Officers.

F) Final Comments and Questions

14. The chair will usually ask Committee Members in order so as to give all Members a chance to make any final comment or ask questions.

G) Recommendation and Final Decision

15. The Chair will “take the temperature” of the Committee and put the officer recommendations to the vote. The Committee could vote to overturn the recommendation, defer or/and change the recommendation. In all cases recommendation reasons must be accompanied by sound planning reasons produced by Planning Officers.
16. The Committee decision is then recorded and the Committee moves on to consider the next item.

Public Comments at the “Last Minute”

17. Public consultation on planning applications is carried out through neighbourhood letters for a minimum of 21 days. On reports/sites that go to Planning Sub Committee, Officers will

usually leave the consultation process open until 1/2 days before the Committee date and report final comments to Committee Members verbally, (since the Agenda will have been published).

Agreeing Committee Meeting Decisions and Producing Authorisations

18. The decisions and minutes of the meeting will be recorded and voted as a correct record at a subsequent meeting. But decision documentation is produced as soon as possible after the Committee with the benefit of video recording.

Respecting Superior Planning Authorities

19. With some major applications where English Heritage, the Mayor & the Secretary of State have a superior power to the Local Council, recommendations will be subject to a direction by these authorities.