

# **Protocol for Hearing Representations at Planning Applications Sub-Committee**

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## **GENERAL PRINCIPLES**

- 1.01. The *Planning Sub-* Committee will operate this protocol with two particular aims:
- (a) to allow those who apply on the night to make representations to be heard by the Committee on items on the agenda for the meeting.
  - (b) to get through the agenda expeditiously to avoid delay to applications and wasted journeys by the public.

## **THE PROCEDURE FOR ADDRESSING THE COMMITTEE**

- 2.01. All those *persons outside the Council* wishing to address the Committee will complete a form stating their details prior to the commencement of the Committee meeting. (Assistance will be available for anyone finding difficulty filling in the form.)
- 2.02. *The rule in paragraph 2.01 does not apply to Members not on the Planning Committee nor to officers outside the Planning Service who wish to address the Committee. They should give written notice of their attendance to the Chair preferably before the meeting but in any event as soon as they arrive at the meeting. The Chair will generally allow such Members and officers to speak but this is always at the Chair's discretion in accordance with paragraph 46 of the Committee Procedure Rules in Part 4 Section B of the Council's Constitution.*
- 2.03. The Chair will allow those *persons outside the Council* completing the form to address the Committee except where there are several people applying to speak, in which case there will be a limit as shown below.

2.04. For any issue which is within the Committee's terms of reference, but for which there is not a report on the agenda, members of the public may use the Deputations Procedure in accordance with Standing Order 37 paragraph 29.10 of the Committee Procedure Rules to make their representations to the Committee.

2.05. With respect to Petitions, for this Committee the requirement in Standing Order 37 paragraph 11.1 of the Council Procedure Rules for 5 days' notice will not apply so that members of the public may submit petitions (without addressing the meeting) on any issue which is within the Committee's terms of reference at any meeting without giving due notice.

**2.06. For items on the agenda which are not planning applications**

(a) Where several people indicate a wish to speak on an item, the Chair will allow only two speakers. Each speaker will be given 3 minutes (or speakers may decide to divide the total time of 6 minutes unequally between themselves).

~~**2.06 For applications with the recommendation to refuse permission**~~

~~(a) Normally representations would **not** be heard by the Committee, but if considered necessary by the Committee, only supporters of the application and objectors to the application may be permitted to speak (i.e. the applicant will not be given the opportunity to speak since applicants have formal mechanisms for a statutory right of appeal.) The Chair will allow up to two speakers on either side with a total time of 6 minutes for each side divided between them.~~

**2.07 For planning applications with the recommendation to grant permission**

(a)	Planning officer presents case, with possible supplementary presentation from other officers.
(b)	Committee asks specific questions on the presentation e.g. clarifying facts, policies etc.
(c)	For applications relating to Conservation Areas, the Chair may allow a representative of the relevant Conservation Area Advisory Committee to address the Committee for up to 3 minutes, followed by any questions from Committee Members.

(d)	Objectors - up to 2 speakers with a total time of 6 minutes divided between them followed by any questions from Committee Members.
(e)	Any interested Councillors who are not Members of the Committee may, with the permission of the Chair, address the Committee <del>(in accordance with Standing Order 41:1)</del> for up to 3 minutes, followed by any questions from Committee Members.
(f)	The Applicant and any supporters will have the right to reply for an equivalent length of time as given to those objecting to the application (the total time to be divided between them) followed by any questions from Committee Members.
(g)	Committee Members ask further questions as necessary of Planning Officers/other officers.
(h)	Committee Members debate the case and consider the recommendation including conditions.
(i)	Chair brings discussion to conclusion and seeks a decision on the recommendation(s), taking vote(s) as necessary. Following the vote, there will be no further discussion of the item.
(For certain cases the procedure may be varied to allow for adjournments for confidential legal advice.)	
The Committee will be aware that some so-called "objectors" can be overall in support of a development but be looking, for example, for some amendment or condition to protect their amenity.	

## 2.08 For applications which are considered but deferred

- (a) Normally, the Committee will hear representations on both/all sides (for example, as set out in para. 2.08 2.07 above) before they make a decision to defer for ~~some~~ any reason. ~~such as a site visit.~~ For site visits, the Committee will agree which parties should be invited to attend; there will usually be a maximum of two representatives of the objectors and two representatives of the applicants.
- (b) When the application is re-submitted to the Committee, further representations will normally only be allowed if some fresh matter has arisen since the first Committee meeting. If this further submission is exceptionally allowed, the number of people speaking will be limited to one ~~speaker~~ objector for a further 3 minutes. The applicant will have a right to reply of 3 minutes.

- ~~(c) In the case of applications deferred for a site visit, Members will have regard to the Code of Conduct for site visits and those who were not able to attend the visit will listen carefully to the views of those who were.~~
- ~~(d) In some cases the Sub-Committee, at the very beginning of the meeting, may decide that they need to visit the site before hearing views for and against the application. In these cases, the officers may present the case and answer Members' questions, and the Sub-Committee will then defer the case without further discussion. At the subsequent meeting when the item is re-submitted, the normal representations procedure (for example, as set out in paragraph 2.07 above) will apply.~~

## 2.09 For larger or more contentious applications

- (a) In relation to larger and/or more controversial applications (as agreed by the Committee), the Chair may allow double the number of speakers, with double the total length of time to be divided between them).
- ~~(b) For example: in relation to para. 2.07 (d) above this would be four speakers with a total of 12 minutes divided between them . and in relation to para. 2.08(b) above (\*and to applications which have already been considered by the Development Control Forum): two speakers with a total of 6 minutes.~~
- (c) The applicant and any supporters will normally have a right to reply of the same length of time as taken by the objectors.

- 2.10. ~~The maximum amount of time allowed for dealing with any application will be~~ The Committee will aim to deal with all applications, except those of exceptional significance, within one and half hours, and the Chair will take active steps to keep to these time-scales in the interests of all participants. Councillors will also act to deal fairly and expeditiously and will therefore limit themselves to 5 minutes for questions and 5 minutes for comments in relation to each application, and will act jointly to limit themselves as a whole to a maximum of 30 minutes of questions and comments for any one application.

## 3. IMPLICATIONS FOR DECISION MAKING

- 3.01. While the matters contained in this protocol are primarily procedural, a key justification for consultation in the planning process is that developments are improved as a result of local input. This should remain the objective of discussions and representations at the Committee (and of those representations made prior to the Committee meeting which will have been taken into account in the writing of the report).

#### **4. EQUAL OPPORTUNITIES**

- 4.01. The adoption and publication of a protocol giving clear information about planning procedures and getting involved in decisions would improve access to the system by all communities in the Borough, as well as potential investors. Arrangements will be put in place to make the policy principles within this protocol available in pamphlets in different languages and in larger print.

#### **5. LEGAL IMPLICATIONS**

- 5.01. As the law is currently understood, a Committee deciding planning applications is not exercising "quasi-judicial" functions to which the Rules of Natural Justice apply and the process does not give rise to the "Right to a Fair Trial" under Article 6 of the Human Rights Act 1998. Notwithstanding the absence of a legal right to a "hearing" by any party, where a Council does formalise procedures for deciding planning applications, which include hearing the various interested parties, this will give rise to legitimate expectations that those procedures will be applied fairly and consistently. Substantial failure to adhere to set procedures could render the Council liable to legal challenge by way, of Judicial Review (most likely by aggrieved objectors). This does not mean that there cannot be exceptions to the procedures in special circumstances or in the interests of overall fairness.
- 5.02. The establishment of procedures along the lines proposed will improve the efficiency, transparency and participatory nature of the Committee's decision making. It should therefore help protect the Council from complaints of maladministration and from legal challenges.