

## PLANNING COMMITTEE – CHAPTER

### (a) Terms of Reference of the Planning Committee

Council has determined that the Planning Committee shall be constituted and shall have delegated authority for the discharge of Council's functions as set out below:

<b>PLANNING COMMITTEE</b>	
<b>Appointed by:</b> The Council under Section 102 of the Local Government Act 1972	<b>Number of elected Members:</b> 12
<b>Chair and Vice-Chair appointed by:</b> The Council	<b>Political proportionality:</b> The elected Members shall be appointed accordingly to Political proportionality.
<b>Quorum:</b> 4	
<b>Code:</b> <ol style="list-style-type: none"> <li>The Planning Committee Procedures in Part B of this Chapter.</li> <li>Code of Practice for Members and Officers – Planning Application, in Part D of this Chapter.</li> </ol>	
<b>Terms of Reference:</b> <ol style="list-style-type: none"> <li>To determine planning and associated or related application for the use or development of land or application for listed building and conservation area consent, to take enforcement or other action, or generally to control the use and development of land. The applications to be considered by the Planning Committee are set out at Part B.</li> <li>To keep under review and make minor alterations as necessary to the Committee's procedures.</li> <li>Without prejudice to the generality of the foregoing, this delegation included the functions as set out in column (1), paragraph A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and all legislation appertaining to planning contained in the Planning Acts including changes introduced by the Localism Act 2011 and the Growth Acts and any amendments thereto.</li> </ol>	

## **Part B – Planning Committee Procedures**

### **1. Interpretation**

- 1.1 Subject to paragraphs 1.2 and 1.3 below, these procedures shall be interpreted in accordance with the Council's Constitution.
- 1.2 "Chair" include, in addition to the Vice-Chair any Members of the Planning Committee elected to Chair a particular meeting.
- 1.3 "Application" means and application for the planning permission and associated or related application for the use or development of land or applications for listed building and conservative area consent or applications otherwise within the terms of reference of the Committee.
- 1.4 "~~Planning Officer~~ "Case Officer" means the planner assigned to process the application (and associated or related applications), usually from the Development Management Team, ~~Leader~~ in place to advise the Planning Committee on them, or someone authorised by him/her to act on his/benefit.
- 1.5 "Senior Officer means the Chief Executive/Head of Paid Service, Director/Senior Leadership Team, or Development Management Team Leader employed by Brentwood Borough Council

### **2. Applications to be considered by the Planning Committee**

- 2.1 The following application will be considered by the Planning Committee:
  - (a) Applications that the ~~Planning Officer~~ Case Officer considers to have significant policy or strategic implications, including departures from the approved development plan which would require referral to the Secretary of State;
  - (b) All applications by or behalf of the Authority in accordance with provisions of the Town and Country Planning General Regulations;
  - (c) All applications by or on behalf of Members, Senior Officer or Officer employed in the Authority's Planning Service (including immediate family ~~close relatives~~ of such Members or Officers).
  - (d) If a Member of the Planning Committee who is party to a request made under 2.1 (d) for an application to be considered by the Planning Committee subsequently declares a disclosable pecuniary interest in that application, the item will be withdrawn from the agenda and dealt with by Officer under delegated authority.

### **3. Planning application validation list**

- 3.1 The Case Officer shall prepare weekly a list of applications (“Application Validation List”) that will indicate which are to be considered by the Planning Committee and which are likely to be determined by Officers under delegated powers authority.
- 3.2 The Planning Applications Validation list will be circulated to all Members of the Council and Parish Council once a week by email.

### **4. Enforcement functions**

- 4.1 The decision on whether or not to pursue or vary enforcement action against any breach of planning control is delegated to the Senior Officer.
- 4.2 Enforcement decision and alleged breaches are reported in line with the Council’s approved Enforcement Plan, which may be amended from time to time.

### **5. The public addressing the Committee**

- 5.1 The Planning Committee may allow objectors, supporters, applicants/planning agents, parish council, other formally constituted bodies (e.g. amenity/residents associations) and also owners of premises subject to enforcement action, or their agents to address the Committee.
- 5.2 The rules for the conduct of the public in addressed the Committee are set out at Part C of this Chapter.

### **6. How decision are taken at meetings**

- 6.1 The normal procedure is:
  - (a) The Chair takes the item in order listed on the agenda
  - (b) The ~~Planning Officer~~ Case Officer introduces the item, clarifying any issues as necessary
  - (c) Speaker in opposition (if any) addresses the Committee in accordance with Part C – 3 minutes
  - (d) Speaker in support (if any) addresses the Committee in accordance with Part C – 3 minutes
  - (e) Other bodies (e.g. amenity/residents associations) (if any) address the Committee in accordance with Part C – 3 minutes
  - (f) Applicants or agent/representative (if any) addresses the Committee in support in accordance with Part C – 3 minutes

- (g) Ward Member (if any) address the Committee in accordance with Part C – 3 minutes
  - (h) Parish Council (if any) addresses the Committee in accordance with Part C – 3 minutes
  - (i) Any Member of the Committee who has disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct will withdraw immediately after speaking
  - (j) The Committee may seek clarification of those who have spoken on any issued raised in their address
  - (k) The ~~Planning Officer~~ Case Officer shall address any issues resulting from the procedure set out in Rule 6.1 (a) to ~~(g)~~ (f) above and the Committee may put questions to the ~~Planning Officer~~ Case Officer
  - (l) The Committee then debates the matter and does not hear any additional representative or comment from the public or non-Committee Members, but may seek further clarification from Officers. Officers may also advise the Committee on relevant planning matters.
- 6.2 When the Chair considers that there has been sufficient debate, he/she will call for a decision. A vote may be taken on the recommendation in the report, once proposed and seconded, or on a motion moved by a Member of the Committee, altering the reports recommendation.
- 6.3 A motion moved by a Member of the Committee that alters the wording of the recommendation of the report must be seconded and be supported by planning reasons for the alteration and those reasons will be set out in the minutes of the meeting.
- 6.4 If the Chair calls for the application to be determined a vote shall be taken on the recommendation as defined in 6.2. If this falls, an alternative motion may be made by any Member of the Committee.
- 6.5 If an alternative motion is moved by a Members of the Committee it must be supported by clear planning reasons and seconded prior to being to the vote. Those reasons will be set out in the minutes of the meeting.
- 6.6 The ~~Planning Officer~~ Case Officer and or the Legal Advisor shall be afforded the opportunity to advise the Committee during the course of debate or any stage of the meeting.

## 7. Decision contrary to Officer recommendations

- 7.1 The laws required that where regard is to be held to the Development Plan, decision shall be taken in accordance with it, unless material considerations indicate otherwise (Section 38 (6), Planning and Compensation Act 2004).
- 7.2 If the Planning Committee seek to make a decision contrary to the ~~Planning Officer's~~ **Case Officer** recommendation (whether for approval or refusal), the following will apply:
- (a) The mover of the motion should clearly specify the motion including the planning reasons for the departing from the Officer recommendation. Both the reasons and the motion should be put to the Committee orally and in public. Any such motion must be seconded
  - (b) The ~~Planning Officer~~ **Case Officer** should always be given the opportunity to explain the implications of what has been proposed to the Planning Committee in public before any vote is taken
  - (c) If the Planning Committee arguments against the ~~Planning Officer's~~ **Case Officer** recommendation are very clear and substantiated on planning grounds the application shall be determined at the meeting. If not, the application should be deferred to enable the ~~Planning Officer~~ **Case Officer** to draft a further report for the subsequent meeting of the Committee, outlining the implications of making a decision contrary to the ~~Planning Officer's~~ **Case Officer** recommendation. If appropriate, the Legal Advisor's opinion should be sought as to whether a deferral is necessary. The Committee's reasons must be formally recorded in the minutes.
- 7.3 When a planning application has be referred to a future meeting following a resolution of 'mindful to approve' or 'mindful to refuse', contrary to the ~~Planning Officer's~~ **Case Officer** recommendation, then at a subsequent Committee meeting, the ~~Planning Officer~~ **Case Officer** will prepare a further written report that will include the reasons formulated by the Committee for being mindful to ~~grant~~ **approve** or refuse permission.
- 7.4 If the Committee is still of the same view, then it will again consider its reasons for ~~granting~~ **approving** or refusing permission, and a summary of the planning reason for the reasons will be given, which reasons must then be formally recorded in the minutes of the meeting. It is important that the justification for the departing from the Officer recommendation that is recorded in the minutes are those reasons given at Committee and in public and that the justification is not subject to later elaboration in the minutes, which is more extensive than the oral presentation.

- 7.5 The Courts have expressed the view that reasons should be clear and convincing. Members must satisfy themselves that where they reach a decision contrary to an Officer recommendation their reasons are substantiated by evidence and that they are able to demonstrate reasonable planning grounds for taking a decision contrary to Officer advice. Where a decision is taken to refuse an application but the Officer recommendation is to approve, the Committee must consider whether any conditions could have allowed the development to have proceeded. In addition, Members should exercise caution in not giving undue weight to any particular consideration.
- 7.6 In instances where the Planning Committee grants approval of an application against Officer recommendation, the ~~Planning Officer~~ **Case Officer** shall draft conditions based on the wording expressed by the Committee to be attached to the approval which shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grants delegated authority to the ~~Planning Officer~~ **Case Officer**. It must be made clear at the Committee which option is taken.
- 7.7 In instance where the Planning Committee refuse an application against Officer recommendation, the detailed reasons for refusal (which shall reflect the minuted reasons provided by the Committee) shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grants delegated authority to the ~~Planning Officer~~ **Case Officer**.

## **8. Site visit by the Planning Committee**

- 8.1 Prior to any meeting of the Planning Committee, the ~~Planning Officer~~ **Case Officer** may be of the opinion that a site visit should be arranged to a site that is the subject of a major application of strategic importance to be considered by the Committee to enable Members to become familiar with the issues to be considered. Any site visit arranged to take place prior to a meeting of the Planning Committee shall be arranged in accordance with Rules 8.6 to 8.9 below and at 09.30am on the Saturday preceding the Committee Meeting.
- 8.2 Occasionally the Committee may defer taking a decision on an item in order to make a site visit. Reasons for a site visit being made shall be recorded in the minutes.
- 8.3 The Committee Members who propose and second a site visit should ensure that they attend the visit or arrange for a substituted Member to attend at 09.30am on the Saturday preceding the Committee Meeting.
- 8.4 Site visits are to be held solely for the purpose of informing the Planning Committee Members by way of visual inspection about the nature of the application. No attempt should be made to make representations or lobby the Committee or individual Members during a site visit.

- 8.5 The planning department will contact the applicant and/or their planning agent to arrange access to the site or premises. Invitations will be sent to the Members of the Committee and Ward Members. Applicants and/or their planning agents and any objectors (or representative or sample of such objectors) shall be informed of the visit. The notification shall contain a brief summary of the procedure to be adopted at the site visit.
- 8.6 The Planning Committee, along with the ~~Planning Officer~~ **Case Officer**, shall carry out the inspection in one group. Planning Committee Members and applicants, agents, objectives and Ward Members present shall not engage in individual discussions.
- 8.7 The ~~Planning Officer~~ **Case Officer** and any other Officer present shall draw to the Committee's attention any relevant features of the site.
- 8.8 Members will not ~~m~~take any decision during the site visit, but may, through the ~~Planning Officer~~ **Case Officer**, ask questions or seek clarification, particularly about the characteristics of the site. Members should refrain from the making comments on the merits of the application during the course of the inspection.
- 8.9 The Case Officer will record the date of the visit, Members present (including non-Members of the Committee) and any other relevant information. A record of the Members present will be included in the minutes of the Meeting.

## **Part C – Public participation at a meeting of the Planning Committee**

### **1. Introduction**

- 1.1 The Council wants to provide the opportunity for the Public and the applicants (or their agents) to speak at the meeting of the Planning & ~~Licensing~~ Committee before Members of the Committee take their decision. Anyone who has written to the Council making representations on a planning application will be contacted by the ~~Development Management~~ **the planning department** upon publication of the relevant agenda and will be advised of the relevant process relating to public speaking (see paragraphs Part C 2.4 and 3.1-3.3).
- 1.2 Upon receipt of a request to speak at the meeting of the Planning & ~~Licensing~~ Committee, the Democratic Service Clerk will organise all such public speaking.

### **2. Who can speak at a meeting of the Planning Committee?**

- 2.1 Only the following may address the Planning Committee:
- (a) In the case of a planning application:
- (i) An objector or their representative
  - (ii) An support or their representative
  - (iii) Other bodies (e.g. amenity/residents associations)
  - (iv) Applicant/Agent or their representative
  - (v) A Ward Member
  - (vi) Parish Council
  - (vii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct.
- 2.2 Only one person, in addition to a Ward Member, will be invited to speak in support of, or in opposition to, any application of enforcement matter appearing on the agenda for the meeting the Planning & ~~Licensing~~ Committee .
- 2.3 Subject to paragraph 2.2, if a person wishes to speak in objection to an application, the applicant must be allowed to speak. An applicant may speak at a meeting even where there are no objectors or Ward Members wishing to speak.

All requests to speak to a meeting of the Planning & Licensing Committee, including those from Ward Members or those notified under paragraph 1.2, must relate to a matter to be considered at the forthcoming meeting of the Committee and be accompanied by a written statement sufficiently setting out the planning matters the speaker wishes to raise at the meeting.



### **3. How can I speak at a meeting of the Planning Committee?**

3.1 All requests to speak including those from Ward Members or those notified under paragraph 1.2, should be received by the Democratic Services Clerk no later than noon two working days prior to the meeting, excluding the day on which the meeting is to be held, (for example, if the Planning Committee is meeting on a Tuesday, the deadline for registration and receipt of a written statement, sufficiently setting out the planning matters the speaker wishes to raise at the meeting, will be 12 noon on the Thursday before the day of the meeting) in one of the following ways:

(a) In writing, address to the:  
Clerk of Planning Committee  
Democratic Services  
Brentwood Borough Council  
Ingrave Road  
Brentwood  
Essex  
CM15 8AY

(b) Via a form on the Council's website at: To be inserted

(c) By e-mail to: To be inserted

(d) If any assistance in registering to speak at the meeting is required, please telephone (01277) 312500.

3.2 The Chair of the Planning & Licensing Committee will not normally allow member so the public to speak if they have failed to notify the Council of their wish to do so in one of the ways described above.

3.3 Where there is more one request to speak on a particular application and those parties have not agreed amongst themselves who will be the appointed spokesperson, the request made will be the person who notified the Council they wished to speak first.

3.4 Where a request is made to speak in opposition to an application the applicant or agent shall have the right to reply to the Committee. A copy of the speaker's written objection will be forwarded to the applicant or their agent and, if they wish to speak at the Committee, the applicant or agent must forward their response, in writing, to the Democratic Services Clerk by noon on the working day before the meeting of the Committee.

3.5 Although Democratic Services Clerk will make every effort to advise the applicant/agent where any such notice has been received, it is the responsibility of the applicant/agent to check two working days (excluding the day on which the Committee is to be held) before the application is be considered as to whether or not anyone has registered to speak.

3.6 The Committee will be provided with copies of the written statements, as referred to in Rule 2.4, from all the speakers prior to the meeting and the relevant agenda and reports will be published to the Council's web site at least five working days before the meeting, with a limited number of copies being made available to persons attending the meeting.

3.7 The Chair may agree to accept representations made outside these procedures where there are exceptional circumstance, for example then someone can show that they have been prejudiced by a failure of the Council to follow procedure in this Constitution. The Chair will state the reasons for using his/her discretion in this respect and these will be included in the minutes of the meeting.

#### **4. What happens at the meeting of the Planning Committee?**

4.1 Application will usually be taken in the order that they appear on the published agenda. However, the Chair may exercise some discretion to allow for those application subject to public participation to be taken first.

4.2 For any application that are subject to public participation, the order in which registered speakers will be called to address the committee will be as follows:

- (i) An objector or their representative
- (ii) An support or their representative
- (iii) Other bodies (e.g. amenity/residents associations)
- (iv) Applicant/Agent or their representative
- (iv) A Ward Member
- (v) Parish Council
- (vi) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct.

4.3 A person who has registered to speak may address the Committee for a period not exceeding 3 minutes. If the time limit is exceeded the Chair will immediately call for an end to the speech.

4.4 If a person who has registered to speak at the meeting does not attend, the application will be dealt with in their absence and will not, for that reason, be deferred.

4.5 No documentation may be circulated, or audio or visual material presented to the Members of the Planning Committee at the meeting.

4.6 The ~~Planning Officer~~ **Case Officer** or the ~~Lawyer~~ **Legal Advisor** advising the Committee, in consultation with the Chair, may disallow any matter which may give offence, deal with confidential or exempt information or otherwise infringe the proper conduct of local government. In such cases, reason for the disallowance will be given.

4.7 If at the start of the meeting, the Committee decided to defer an item to a future meeting, any speaker who have registered to speak prior to the item being deferred will be given first priority to speak when the item is reported back to Committee. In instances, where an application is deferred after speakers have addressed the Committee (for example, to enable a site visit to be undertaken) then when the matter is reported back to Committee there will be no further rights for any party to speak further.

**5. What can you speak about?**

5.1 Speaker can speak for themselves or on behalf of others. Any representations made should relate only to material planning considerations and not matter that fall outside the remit of the Committee.

5.2 Speakers are asked where possible not to repeat points made by other speakers.

**Part D – Planning Code of Good Practice**

*Latest Code to be inserted here*