

PROTOCOL/GUIDANCE NOTE ON THE REFERRAL OF PLANNING APPLICATIONS TO COMMITTEE

- Only the Chair of the Planning and Development Control Committee can refer applications across the Borough, after discussion with the Head of Planning and Development. In the absence of the Chair, the Vice-Chairman may exercise this discretionary power. The Vice-Chairman may also act at the request of Single Ward Members who are also Members to the Committee.
- Ward Members not on the Committee (or not intending to participate in the decision) can refer applications to Committee after discussion with the Case Officer. A Member of a Parish Council, authorised by the Parish Council, may also refer applications within the Parish after discussion with the Case Officer. Referrals should be made using the Pro forma indicating the Policy context, relevant issues and any procedural concerns. Any disclosable interest should be declared. The decision to accept or reject the referral shall be made by the Chair of the Committee (or Vice-Chair in his absence) after discussion with the Case Officer or Head of Planning and Development.
- Referrals should not be made simply to allow an applicant or agent to address the Committee, or in the case of subsequent applications within two years of a previous refusal without material alterations.
- When a referral has been made and accepted as valid, the Member or Parish Council representative involved shall be advised of the date of the Committee meeting, may attend and, if so, shall be entitled to address the Committee but not vote.

GUIDANCE

Statutory provisions

Section 70(2) Town and Country Planning Act 1990 requires that the Local Planning Authority - the Committee or an officer acting under delegated powers - in dealing with an application shall have regard to provisions of the development plan, so far as material to the application, any local finance considerations so far as material to the application and to any other material considerations. This section must be read together with Section 38(6) Planning and Compulsory Purchase Act 2004. This provides that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts the determination must be made in accordance with the provisions of the development plan unless material considerations indicate otherwise.

To be material considerations must be planning considerations. The requirement to have regard to "any other material considerations" means not only that all relevant matters are taken into account, but also the decision may be invalid if based upon a consideration which is not material.

Accordingly, at the time of decision it is important that all material decisions must be known to take them into account. Responses to consultation, even if late, must be taken into account to the extent that they raise new material planning considerations. A distinction must be drawn between considerations which are potentially material but are not relevant in the case of the particular application: examples include ecological issues under the Habitats Directive which are evidence based

Examples of material considerations (explanatory wording to be added – is this list sufficiently complete?)

- Relevant Government Policy
- Existing Use
- Effect on neighbouring properties
- Presumption in favour of sustainable development
- Loss of visual amenity

- Design
- Heritage
- Highways
- Noise
- Previous decisions
- Fairness
- Permitted Development
- Human Rights
- Flooding
- Crime and Fear of Crime
- Financial Matters
- Trees
- Noise
- Personal Hardship
- Parking
- Precedent /Consistency

Pre- application meetings are confidential. Ward Councillors may attend and ask questions (whether Members of the Planning Committee or not) but must not express views on the proposal to the developer applicant. The Information Commissioner Guidance is that the formal advice of the Local Planning Authority after pre-application meetings is to be made available free of charge upon requests made under the Environmental Information Regulations.