



Contact Officer:

Sophie Butcher, Democratic Services Officer

30 January 2023

Dear Councillor

Your attendance is requested at a meeting of the **PLANNING COMMITTEE** to be held in the Council Chamber, Millmead House, Millmead, Guildford, Surrey GU2 4BB on **TUESDAY 7 FEBRUARY 2023 at 7.00 pm.**

Members of the public may watch the live webcast here: <https://guildford.publici.tv/core/portal/home>

Yours faithfully
Tom Horwood
Joint Chief Executive

MEMBERS OF THE COMMITTEE

Chairman: Councillor Fiona White
Vice-Chairman: Councillor Colin Cross

Councillor Jon Askew
Councillor Christopher Barrass
Councillor David Bilbé
Councillor Chris Blow
Councillor Ruth Brothwell
Councillor Angela Goodwin
Councillor Angela Gunning

Councillor Liz Hogger
Councillor Marsha Moseley
Councillor Ramsey Nagaty
Councillor Maddy Redpath
Councillor Pauline Searle
Councillor Paul Spooner

Authorised Substitute Members:

Councillor Tim Anderson
The Mayor, Councillor Dennis Booth
Councillor Guida Esteves
Councillor Graham Eyre
Councillor Andrew Gomm
Councillor Steven Lee
Councillor Nigel Manning
Councillor Ted Mayne
Councillor Bob McShee
Councillor Susan Parker

Councillor George Potter
Councillor Jo Randall
Councillor John Redpath
Councillor Will Salmon
Councillor Deborah Seabrook
Councillor Cait Taylor
Councillor James Walsh
Councillor Keith Witham
Councillor Catherine Young

QUORUM 5

THE COUNCIL'S STRATEGIC FRAMEWORK (2021- 2025)

Our Vision:

A green, thriving town and villages where people have the homes they need, access to quality employment, with strong and safe communities that come together to support those needing help.

Our Mission:

A trusted, efficient, innovative, and transparent Council that listens and responds quickly to the needs of our community.

Our Values:

- We will put the interests of our community first.
- We will listen to the views of residents and be open and accountable in our decision-making.
- We will deliver excellent customer service.
- We will spend money carefully and deliver good value for money services.
- We will put the environment at the heart of our actions and decisions to deliver on our commitment to the climate change emergency.
- We will support the most vulnerable members of our community as we believe that every person matters.
- We will support our local economy.
- We will work constructively with other councils, partners, businesses, and communities to achieve the best outcomes for all.
- We will ensure that our councillors and staff uphold the highest standards of conduct.

Our strategic priorities:

Homes and Jobs

- Revive Guildford town centre to unlock its full potential
- Provide and facilitate housing that people can afford
- Create employment opportunities through regeneration
- Support high quality development of strategic sites
- Support our business community and attract new inward investment
- Maximise opportunities for digital infrastructure improvements and smart places technology

Environment

- Provide leadership in our own operations by reducing carbon emissions, energy consumption and waste
- Engage with residents and businesses to encourage them to act in more environmentally sustainable ways through their waste, travel, and energy choices
- Work with partners to make travel more sustainable and reduce congestion
- Make every effort to protect and enhance our biodiversity and natural environment.

Community

- Tackling inequality in our communities
- Work with communities to support those in need
- Support the unemployed back into the workplace and facilitate opportunities for residents to enhance their skills
- Prevent homelessness and rough-sleeping in the borough

AGENDA

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

2 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTERESTS

In accordance with the local Code of Conduct, a councillor is required to disclose at the meeting any disclosable pecuniary interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must also withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, you must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

Councillors are further invited to disclose any non-pecuniary interest which may be relevant to any matter on this agenda, in the interests of transparency, and to confirm that it will not affect their objectivity in relation to that matter.

3 ANNOUNCEMENTS

To receive any announcements from the Chairman of the Committee.

4 PLANNING COMMITTEE REVIEW - REPORT AND RECOMMENDATIONS OF THE WORKING GROUP

(Pages 13 - 64)

5 REVIEW OF THE PROBITY IN PLANNING LOCAL CODE OF PRACTICE HANDBOOK

(Pages 65 - 154)

WEBCASTING NOTICE

This meeting will be recorded for live and/or subsequent broadcast on the Council's website in accordance with the Council's capacity in performing a task in the public interest and in line with the Openness of Local Government Bodies Regulations 2014. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

If you have any queries regarding webcasting of meetings, please contact Committee Services.

NOTES:

(i) Procedure for determining planning and related applications:

1. A Planning Officer will present the Officer's Report virtually by sharing the presentation on Microsoft Office Teams as part of the live meeting which all committee members will be able to see online. For members of the public, able to dial into the meeting, copies of the presentation will be loaded onto the website to view and will be published on the Tuesday of the same week prior to the meeting. Planning officers will make it clear during the course of their presentation which slides they are referring to at all times.
2. Members of the public who have registered to speak may then address the meeting in accordance with the agreed procedure for public speaking (a maximum of two objectors followed by a maximum of two supporters). Public speakers must observe social distancing rules, if attending in person. If joining online, public speakers will be sent an invite by the Democratic Services Officer (DSO) via Microsoft Office Teams to attend online or via a telephone number and conference ID code as appropriate to the public speakers needs. Prior to the consideration of each application which qualifies for public speaking, the DSO will ensure all public speakers are online. If public speakers cannot access the appropriate equipment to participate, or owing to unexpected IT issues experienced they cannot participate in the meeting, they are advised to submit their three-minute speech to the Democratic Services Officer by no later than midday the day before the meeting. In such circumstances, the DSO will read out their speech. Alternatively, public speakers may wish to attend the meeting in person in the Council Chamber.
3. The Chairman gives planning officer's the right to reply in response to comments that have been made during the public speaking session.
4. Any councillor(s) who are not member(s) of the Planning Committee, but who wish to speak on an application, either in or outside of their ward, will be then allowed for no longer than three minutes each. It will be at the Chairman's discretion to permit councillor(s) to speak for longer than three minutes and will have joined the meeting remotely via MSTeams. [Councillors should notify the Committee Officer, in writing, by no later than midday the day before the meeting of their intention to speak and send the DSO a copy of their speech so it can be read out on their behalf should they lose their wi-fi connection.] If the application is deferred, any councillor(s) who are not member(s) of the Planning Committee will not be permitted to speak when the application is next considered by the Committee.
5. The Chairman will then open up the application for debate. The Chairman will ask which councillors wish to speak on the application and determine the order of speaking accordingly. At the end of the debate, the Chairman will check that all members had had an opportunity to speak should they wish to do so.
 - (a) No speech shall be longer than three minutes for all Committee members. As soon as a councillor starts speaking, the DSO will activate the timer. The DSO will advise when there are 30 seconds remaining and when the three minutes has concluded;
 - (b) No councillor to speak more than once during the debate on the application;

- (c) Members shall avoid repetition of points made earlier in the debate.
- (d) The Chairman gives planning officer's the right to reply in response to comments that have been made during the debate, and prior to the vote being taken.
- (e) Once the debate has concluded, the Chairman will automatically move the officer's recommendation following the debate on that item. If it is seconded, the motion is put to the vote. The Chairman will confirm verbally which councillor has seconded a motion. A simple majority vote is required for the motion to be carried. If it is not seconded or the motion is not carried then the Chairman will ask for a second alternative motion to be put to the vote. The vote will be taken by roll call or by affirmation if there is no dissent.

In any case where the motion is contrary to officer recommendation that is:

- Approval to refusal, or;
- Refusal to approval;
- Or where the motion proposes additional reasons for refusal, or additional conditions to be included in any planning permission. The following procedure shall be followed:
 - Where the alternative motion is to propose a refusal, the proposer of the motion shall be expected to state the harm (where applicable) and the relevant policy(ies) to justify the motion. In advance of the vote, provided that any such proposal has been properly moved and seconded, the Chairman shall discuss with relevant officers and the mover and seconder of the motion, the reason(s), conditions (where applicable) and policy(ies) put forward to ensure that they are sufficiently precise, state the harm (where applicable) and support the correct policies to justify the motion. All participants and members of the public will be able to hear the discussion between the Chairman and the relevant officers and the mover and seconder of the motion. Following the discussion the Chairman will put to the Committee the motion and the reason(s) for the decision before moving to the vote. The vote will be taken by roll call or by affirmation, if there is no dissent.
- (f) A motion can also be proposed and seconded at any time to defer or adjourn consideration of an application (for example for further information/advice backed by supporting reasons).
- (g) Technical difficulties during the meeting. If the Chairman or the DSO identifies a failure of the remote participation facility and a connection to a Committee Member is lost during the meeting, the Chairman will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed, provided that it remains quorate. If the Member who was disconnected is subsequently re-connected and they have missed any part of the debate on the matter under discussion, they will not be able to vote on that matter as they would not have heard all the facts.

6. Unless otherwise decided by a majority of councillors present and voting by roll call at the meeting, all Planning Committee meetings shall finish by no later than 10:30pm.

Any outstanding items not completed by the end of the meeting shall be adjourned to the reconvened or next ordinary meeting of the Committee.

7. In order for a planning application to be referred to the full Council for determination in its capacity as the Local Planning Authority, a councillor must first with a seconder, write/email the Democratic Services and Elections Manager detailing the rationale for the request (the proposer and seconder does not have to be a planning committee member).

The Democratic Services and Elections Manager shall inform all councillors by email of the request to determine an application by full Council, including the rationale provided for that request. The matter would then be placed as an agenda item for consideration at the next Planning Committee meeting. The proposer and seconder would each be given three minutes to state their case. The decision to refer a planning application to the full Council will be decided by a majority vote of the Planning Committee.

GUIDANCE NOTE For Planning Committee Members

Probity in Planning – Role of Councillors

Councillors on the Planning Committee sit as a non-judicial body, but act in a semi-judicial capacity, representative of the whole community in making decisions on planning applications. They must, therefore:

1. act fairly, openly and apolitically;
2. approach each planning application with an open mind, avoid pre-conceived opinions;
3. carefully weigh up all relevant issues;
4. determine each application on its individual planning merits;
5. avoid undue contact with interested parties; and
6. ensure that the reasons for their decisions are clearly stated.

The above role applies to councillors who are nominated substitutes on the Planning Committee. Where a councillor, who is neither a member of, nor a substitute on the Planning Committee, attends a meeting of the Committee, he or she is also under a duty to act fairly and openly and avoid any actions which might give rise to an impression of bias or undue influence.

Equally, the conduct of members of any working party or committee considering planning policy must be similar to that outlined above relating to the Planning Committee.

Reason for Refusal

How a reason for refusal is constructed.

A reason for refusal should carefully describe the harm of the development as well as detailing any conflicts with policies or proposals in the development plan which are relevant to the decision.

When formulating reasons for refusal Members will need to:

- (1) Describe those elements of the proposal that are harmful, e.g. bulk, massing, lack of something, loss of something.
- (2) State what the harm is e.g. character, openness of the green belt, retail function and;
- (3) The reason will need to make reference to policy to justify the refusal.

Example

The proposed change of use would result in the loss of A1 retail frontage at Guildford Town Centre, which would be detrimental to the retail function of the town and contrary to policy SS9 in the Guildford Local Plan.

Reason for Approval

How a reason for approval is constructed.

A reason for approval should carefully detail a summary of the reasons for the grant of planning permission and a summary of the policies and proposals in the development plan, which are relevant to the decision.

Example:

The proposal has been found to comply with Green Belt policy as it relates to a replacement dwelling and would not result in any unacceptable harm to the openness or visual amenities of the Green Belt. As such the proposal is found to comply with saved policies RE2 and H6 of the Council's saved Local Plan and national Green Belt policy in the NPPF.

Reason for Deferral

Applications should only be deferred if the Committee feels that it requires further information or to enable further discussions with the applicant or in exceptional circumstances to enable a collective site visit to be undertaken.

Clear reasons for a deferral must be provided with a summary of the policies in the development plan which are relevant to the deferral.

APPLICATIONS FOR PLANNING PERMISSION & RELATED APPLICATIONS FOR CONSIDERATION BY THE PLANNING COMMITTEE

NOTES:

Officers Report

Officers have prepared a report for each planning or related application on the Planning Committee Index which details:-

- Site location plan;
- Site Description;
- Proposal;
- Planning History;
- Consultations; and
- Planning Policies and Considerations.

Each report also includes a recommendation to either approve or refuse the application. Recommended reason(s) for refusal or condition(s) of approval and reason(s) including informatives are set out in full in each report.

Written Representations

Copies of representations received in respect of the applications listed are available for inspection by Councillors at the plans viewing session held prior to the meeting and will also be available at the meeting. Late representations will be summarised in a report which will be circulated at the meeting.

Planning applications and any representations received in relation to applications are available for inspection at the Planning Services reception by prior arrangement with the Head of Planning Services.

Background Papers

In preparing the reports relating to applications referred to on the Planning Committee Index, the Officers refer to the following background documents:-

- The Town and Country Planning Act 1990, Planning and Compulsory Purchase Act 2004, the Localism Act and other current Acts, Statutory Instruments and Circulars as published by the Department for Communities and Local Government (CLG).
- Guildford Borough Local Plan: Strategy and Sites 2015-2034.
- The South East Plan, Regional Spatial Strategy for the South East (May 2009).
- The National Planning Policy Framework (NPPF) (March 2012)
- The Town and Country Planning (General Permitted Development) Order 1995, as amended (2010).
- Consultation responses and other correspondence as contained in the application file, together with such other files and documents which may constitute the history of the application site or other sites in the locality.

Human Rights Act 1998

The Human Rights Act 1998 (the 1998 Act) came into effect in October 2000 when the provisions of the European Convention on Human Rights (the ECHR) were incorporated into UK Law.

The determination of the applications which are the subject of reports are considered to involve the following human rights issues:

- 1 Article 6(1): right to a fair and public hearing

In the determination of a person's civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the hearing in certain circumstances (e.g. in the interest of morals, strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.)

- 2 Article 8: right to respect for private and family life (including where the article 8 rights are those of children s.11 of the Children Act 2004)

Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

s.11 of the Childrens Act 2004 requires the Council to make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children. Furthermore, any services provided by another person pursuant to arrangements made by the Council in the discharge of their functions must likewise be provided having regard to the need to safeguard and promote the welfare of children.

- 3 Article 14: prohibition from discrimination

The enjoyment of the rights and freedoms set out in the ECHR shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

- 4 Article 1 Protocol 1: protection of property;

Every person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. However, the state retains the right to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

- 5 Article 2 Protocol 1: right to education.

No person shall be denied the right to education.

Councillors should take account of the provisions of the 1998 Act as they relate to the applications on this agenda when balancing the competing interests of the applicants, any third party opposing the application and the community as a whole in reaching their decision. Any interference with an individual's human rights under the 1998 Act/ECHR must be just and proportionate to the objective in question and must not be arbitrary,

unfair or oppressive. Having had regard to those matters in the light of the convention rights referred to above your officers consider that the recommendations are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

Costs

In planning appeals the parties involved normally meet their own costs. Most appeals do not result in a costs application. A costs award where justified is an order which states that one party shall pay to another party the costs, in full or part, which has been incurred during the process by which the Secretary of State or Inspector's decision is reached. Any award made will not necessarily follow the outcome of the appeal. An unsuccessful appellant is not expected to reimburse the planning authority for the costs incurred in defending the appeal. Equally the costs of a successful appellant are not borne by the planning authority as a matter of course.

However, where:

- A party has made a timely application for costs
- The party against whom the award is sought has behaved unreasonably; and
- The unreasonable behaviour has directly caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process a full or partial award is likely.

The word "unreasonable" is used in its ordinary meaning as established in the courts in *Manchester City Council v SSE & Mercury Communications Limited 1988 JPL 774*. Behaviour which is regarded as unreasonable may be procedural or substantive in nature. Procedural relates to the process. Substantive relates to the issues arising on the appeal. The authority is at risk of an award of costs against it if it prevents or delays development, which should clearly be permitted having regard to the development plan. The authority must produce evidence to show clearly why the development cannot be permitted. The authority's decision notice must be carefully framed and should set out the full reasons for refusal. Reasons should be complete, precise, specific and relevant to the application. The Planning authority must produce evidence at appeal stage to substantiate each reason for refusal with reference to the development plan and all other material considerations. If the authority cannot do so it is at risk of a costs award being made against it for unreasonable behaviour. The key test is whether evidence is produced on appeal which provides a respectable basis for the authority's stance in the light of *R v SSE ex parte North Norfolk DC 1994 2 PLR 78*. If one reason is not properly supported but substantial evidence has been produced in support of the others a partial award may be made against the authority. Further advice can be found in the *Department of Communities and Local Government Circular 03/2009* and now *Planning Practice Guidance: Appeals paragraphs 027-064 inclusive*.

This page is intentionally left blank

Planning Committee Report

Ward(s) affected: All

Report of: Joint Strategic Director: Place

Joint Strategic Director: Transformation and Governance

Authors: Gilian Macinnes/ John Armstrong/ Sophie Butcher

Tel: 01483 444961/444102

Email: gilian.macinnes@guildford.gov.uk / john.armstrong@guildford.gov.uk / sophie.butcher@guildford.gov.uk

Lead Councillor responsible: Tom Hunt

Tel: 07495 040978

Email: tom.hunt@guildford.gov.uk

Date: 7 February 2023

Review and implementation of the recommendations of the Planning Committee Peer Review – findings of the working group

Executive Summary

Councillors will be aware that the Council had originally scheduled a Planning Committee Peer Review to be undertaken by the Local Government Association (LGA) with the Planning Advisory Service (PAS) in March 2020, but this was postponed due to the Coronavirus pandemic. The Peer Review was rescheduled and took place in early November 2020, following which the LGA published their final report which included 12 recommendations for the Council to consider. The LGA's report was circulated to all councillors at the time, and a copy is attached as **Appendix 1** to this report.

The LGA had recommended that the Council should set up a Task and Finish joint officer/ member group led by an independent, senior, well-respected person to take the Peer Review recommendations and other improvement needs forward, and to take advantage of viewing the operation of other Planning Committees to aid learning.

In January 2021, the Executive agreed to establish the Planning Committee Review Working Group with following terms of reference:

'To consider the LGA Planning Committee Peer Review recommendations and other improvement needs, and make recommendations as appropriate to the Executive, Planning Committee and full Council.'

The working group met on six occasions to consider the 12 recommendations. A report from the working group setting out details of their discussion against each recommendation and the working group's own recommended response to each of the recommendations is attached as **Appendix 2**.

As most of the recommendations arising from the review affect the operation of the Planning Committee, this report is being referred initially to this Committee for comments, following which it will be referred to the Executive and then to full Council on 22 February 2023.

Recommendation to Committee:

- (1) That the Planning Committee be requested to consider and comment on this report and the recommendations of the Planning Committee Review Working Group.
- (2) That the report including the comments and recommendations of the Planning Committee, be referred to the Executive and then to full Council for determination.
- (3) That, subject to the approval of the recommendations, the Committee recommends that full Council agrees to a regular review of the processes and practices referred to therein to be led by the Executive Head of Planning Development, in consultation with the relevant lead councillor and Chairman of the Planning Committee.

Reasons for Recommendation:

To modernise the operation of the Planning Committee and to review and update all associated processes and procedures.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 To report the findings and recommendations of the Planning Committee Review Working Group which has been discussing the specific recommendations made by the LGA Peer Review of the Planning Committee.

2. Background

- 2.1 The Working Group was set up by the Executive with the following terms of reference:

'To consider the LGA Planning Committee Peer Review recommendations and other improvement needs, and make recommendations as appropriate to the Executive, Planning Committee and full Council.'

- 2.2 The Working Group consisted of Councillors Chris Blow, Colin Cross, Angela Gunning, Tom Hunt, Marsha Moseley, Susan Parker (replaced by Catherine Young for the last meeting) and Fiona White. An independent person (Mike Holmes) was appointed to chair the working group. The officers who regularly attended consisted of Dan Ledger (the then Interim Head of Place), Delwyn Jones (Senior Specialist Lawyer (Planning Regeneration and Litigation), John Armstrong (Democratic Services and Elections Manager) and Sophie Butcher (Democratic Services Officer).
- 2.3 Meetings of the group have been held since April 2021 to work through the eleven substantive recommendations as detailed in Appendix 2 and formulate firm conclusions to move forward. Towards the conclusion of this process the Chairman was unable to continue which therefore delayed the production of the final report from early 2022. A meeting was reconvened in July 2022 which nominated Cllr Fiona White as Chairperson and to agree the final Group Recommendations. This is attached at **Appendix 2** and forms the basis of the recommendation of the group for consideration by the Planning Committee, the Executive, and full Council.
- 2.4 Councillors will be aware that the Council has failed to meet the Government's non-major application speed threshold and, consequently, may face designation.
- 2.5 The Improving planning performance criteria for designation states that:

'Where an authority is designated, applicants may apply directly to the Planning Inspectorate (on behalf of the Secretary of State) for the category of applications (major, non-major or both) for which the authority has been designated,Where an authority is designated for their performance in determining applications for non-major development, applicants for householder applications and retrospective applications will not be able to submit their applications to the Planning Inspectorate as it is considered these applications are best dealt with locally'.
- 2.6 The criteria stipulate that an action plan will be required to address weaknesses particularly for the determination of householder applications. If the Council is designated, it will potentially lose control over the determination of non-major applications (except Householders) and the fees that accompany them.
- 2.7 In responding to the designation letter we have received it will be extremely important to demonstrate to Government that we are addressing the issues that have contributed to our poor performance and that have been the basis of

recommendations in the PAS Committee Review (November 2020), which is **Appendix 1**, and the PAS Development Management Review (March 2022). A copy of the 2022 report is attached as **Appendix 5**.

- 2.8 Councillors' attention is drawn, in particular, to recommendations R3 and R7 in the 2022 report at **Appendix 5**, which deal respectively with the suggested removal of the specific delegation to the Executive Head of Planning Development to approve extensions of time in order to allow case officers to agree these with applicants whenever required, and the recommended review of arrangements for referral of applications to Committee by councillors with a view to amending timeframes to ensure call-in requests are made earlier in the process.

3. Strategic Priorities

- 3.1 This proposal to update various processes accords with the Council's strategic framework. The decision making of the Planning Committee affects the three strategic priorities that create the Council's vision.

4. Background

- 4.1 A planning committee peer review was commissioned and undertaken by the Local Government Association and the Planning Advisory Service. The report on this was published in November 2020 and included a series of recommendations. The report is attached as **Appendix 1**; however, the specific recommendations are set out below:

- **R1:** Provide greater certainty in planning process by ensuring decision making conforms with planning policies and material planning considerations acting on behalf of the whole Guildford community and ensuring that there is clear separation between ward level responsibilities and decision-making role on Committee.
- **R2:** Explore ways to rebuild trust and confidence between officers and Members. Consider running an independently facilitated workshop to be held between officers and Members, separate to the Planning Committee meeting, to better understand their roles, issues and concerns.
- **R3:** Examine ways for Planning Committee and relevant officers to discuss and learn from appeal decisions to ensure that decisions on planning applications are undertaken, on behalf of the whole Guildford borough community, in a fair, impartial and transparent way. The present system tagged onto the end of often long Planning Committees is not conducive to creating a learning atmosphere.
- **R4:** Review Planning Committee reports to see if further explanation can be given on the weight to be afforded to the Local

and Neighbourhood Plan policies as well as material planning considerations such as the National Planning Policy Framework (NPPF).

- **R5:** Ensure planning officers and Committee members are more aware of the impact of what a lack of housing delivery has on the weight given to Local Plan policies and kept appropriately updated on the work of the Housing Delivery Board.
- **R6:** Review the opportunity for further guidance in the form of a supplementary planning document to help guide new high quality and sustainable development.
- **R7:** Review the Planning Committee referral system focusing particularly on the Member referral process (7-day procedure) and householder referral system to ensure that applications are not unnecessarily delayed and Planning Committee can focus on the strategically more important applications.
- **R8:** Revisit the site visits protocol with particular emphasis on who attends and on ensuring a consistent approach of officers and conduct of members during the site visit.
- **R9:** Review the member overturns process so that alternative motions are raised by Members and advice is provided by officers prior to the officer recommendation vote being made.
- **R10:** Undertake bespoke probity in planning and appeals training for members with a neutral facilitator, for example, someone who has direct experience of being a Planning Inspector.
- **R11:** Review public speaking opportunities for Parish councils and special interest groups.
- **R12:** Examine the possibility of setting up a Task and Finish joint officer/member group led by an independent, senior, well-respected person to take Peer Review recommendations and other improvement needs forward. Take advantage of viewing the operation of other Planning Committees to aid learning.

4.2 Most of the suggestions are straightforward; however, attention is drawn to **R7** and **R9** which deal respectively with the process for member referrals of planning applications to committee and the member overturn process. These matters will result in a change to current working practices with the change to the member referral process representing a significant change. However, the original peer review was clear that this process had to be reviewed to a more front loaded and efficient process.

4.3 The main principle around the proposed referral process is moving to the start of the application process. This enables early engagement with Members and reduces the burden at the end of the application cycle when late referral to committee occurs. There will be greater certainty to applicants and neighbours and assist with speedier decision making. A copy of the proposed referral process is attached at **Appendix 3**.

- 4.4 **R9** recommends changes to the member overturn process. This is more of a minor change to reflect good practice rather than a significant change. The proposed procedure for dealing with the member overturn process, as set out in **Appendix 4**, addresses the Peer Review recommendation.
- 4.5 It is suggested that, if the Council supports the working group recommendations in response to **R1**, **R5** and **R10**, the Councillor Development Steering Group be invited to implement the proposals as they relate to Member training.
- 4.6 Importantly this report also recognises the need to have a more regular review of key processes and suggests that the Council agrees to the regular reviewing of these practices to be led by the Executive Head of Planning Development, in consultation with the relevant lead councillor and Chairman of the Planning Committee.

5. Corporate Governance Task Group's Review of the Probity in Planning Handbook

- 5.1 From June 2022, the Corporate Governance Task Group has been reviewing the Probity in Planning (PiP) Handbook (see the item on this elsewhere on this agenda). The PiP Handbook includes some matters that were covered in the deliberations of the Planning Committee Review Working Group, namely the Member referral process (**R7**), the site visit protocol (**R8**), and the Member overturn process (**R9**).
- 5.2 It was the initial intention of the Task Group to not duplicate the work of the Working Group and to amend the PiP Handbook to reflect the outcome of the deliberations of the Working Group. However, when it became apparent that the incapacity of the independent chairman of the Working Group had significantly hampered progress on the Planning Committee review, which was followed by the departure of the Interim Head of Place at the end of October 2022 leaving certain matters incomplete, the Task Group was able to review these matters as part of its review of the PiP Handbook, with the advice and assistance of the Interim Executive Head of Planning Development.
- 5.3 Consequently, the Member referral process at **Appendix 3** and the member overturn process at **Appendix 4** reflect the outcome of the recent discussions of the Task Group. Although the Working Group has recommended no change to the site visit protocol, the Task Group felt that the guidance in the PiP Handbook could be expanded to reflect the current good practice (see section 20 of the proposed revised PiP Handbook elsewhere on this agenda).

6. Consultations

- 6.1 Consultation on the report was not necessary as the working group comprised key councillors, with relevant documentation circulated to the Lead Councillor for Development Management during the review process.

7. Key Risks

- 7.1 The function of a resilient planning committee is a key part of the Council's role as Local Planning Authority, by ensuring that Members understand their function and role in decision making. Poor decision making has considerable risk in terms of financial and reputational damage. Furthermore, if correct legal processes are not followed, the Council could be open to legal challenge.

8. Financial Implications

- 8.1 Changes to the member referral process, as recommended in this report, have the ability to improve financial performance by making the application process more efficient. However, failure to make these changes may have very significant adverse financial implications such as cost of appeals and the council being designated for non-performance.
- 8.2 If the proposal to front load the member referral process, by removing the 7 day notice and replacing it with the proposed 21 day call up to Committee, is not adopted it will have a significantly adverse impact on the timely determination of applications, thus hindering the Council's ability to improve the speed of determination of non-major applications. This would reject Recommendation 7 of the PAS Committee Review 2020 and Recommendation 7 of the PAS Development Management Review 2022 and could lead to designation by the Secretary of State, which would have a significant impact both financially and reputationally on the Council.
- 8.3 Failure to ensure the timeliness and quality of planning decision making, may lead to unnecessary and avoidable appeals or legal challenges, thus incurring potentially significant costs to the Council.

9. Legal Implications

- 9.1 Reviews of this nature are worthwhile to ensure procedures remain updated, legally compliant and include best practice across the board from other authorities and agencies, e.g. the LGA and PAS.
- 9.2 However, potentially, there are also very significant legal implications arising from some of the recommendations. Although most represent procedural matters, as mentioned above, failure to ensure the timeliness

and robust quality of planning decision making, may lead to unnecessary and avoidable appeals or legal challenges. In addition, these can in turn lead to added risk, reputational damage and Secretary of State intervention.

10. Human Resource Implications

- 10.1 There are no direct Human Resource implications arising from this report. However, failure to address the recommendations in the Peer Review, particularly recommendation R7, could result in designation which would have a negative impact on recruitment and retention of planning officers.

11. Equality and Diversity Implications

- 11.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from the report.

12. Climate Change/Sustainability Implications

- 12.1 There are no climate change/sustainability implications arising from this report.

13. Summary of Options

- 13.1 It is open to the Council to approve, amend, or not support, the recommendations of the Planning Committee Review Working Group. Similarly, the Planning Committee and the Executive may support or suggest amendments to the recommendations.

14. Conclusion

- 14.1 **Appendix 2** sets out the discussions and recommendations of the working group necessary to bring the current process to a conclusion and implementation of the recommendations proposed. Alongside this is a measure to regularly review key processes.

15. Background Papers

None

16. Appendices

Appendix 1: LGA/PAS Planning Committee Peer Review Report

Appendix 2: Review and implementation of the recommendations of the Planning Committee Peer Review – findings of the Working Group

- Appendix 3: Revised Member engagement and process for referral to Planning Committee
- Appendix 4: Revised Member overturn process
- Appendix 5: PAS Guildford Borough Council Development Management Review March 2022

Please ensure the following service areas have signed off your report. Please complete this box and do not delete.

Service	Sign off date
<i>Finance / S.151 Officer</i>	<i>No response</i>
<i>Legal / Governance</i>	<i>13 Jan 2023</i>
<i>HR</i>	<i>No response</i>
<i>Equalities</i>	<i>No response</i>
<i>Lead Councillor</i>	<i>No response</i>
<i>CMT</i>	<i>24 Jan 2023</i>
<i>Executive Liaison</i>	<i>1 Feb 2023</i>
<i>Committee Services</i>	<i>24 Jan 2023</i>

This page is intentionally left blank



Planning Committee Peer Review

Guildford Borough Council

November 3, 4 & 6, 2020



1.0 Executive Summary

1.1 This report summarises the findings of a planning committee peer challenge review, organised by the Local Government Association (LGA) with the Planning Advisory Service (PAS) and carried out by its trained peers. The aim of the peer review was to assess the operation of the Council's Planning Committee along with some more specific related questions on Committee processes.

1.2 Due to the ongoing limitations to normal working practices and the need for social distancing as a result of the continuing Covid 19 world pandemic, the Council agreed with the peer team that the review would be undertaken virtually. Therefore, our report and findings reflect a set of specific circumstances that have prevailed since the coronavirus crisis and the report should be viewed within this context. The peer review was also undertaken not long following the release of the Government's White Paper 'Planning For The Future' in August 2020. The peer team have not therefore considered the potential implications of the proposals in the White Paper on the operation of Planning Committees.

1.3 We clearly recognise the existing and on-going impacts that the Council and planning service has had to manage since March 2020 as a result of the Covid 19 pandemic. This has affected all the work of the planning service, including the requirement to carry out planning committee meetings online to comply with Government guidance and regulations in relation to public meetings in indoor spaces.

1.4 Another important consideration for our review is that the Council's Local Plan is relatively new. Adopted in April 2019, the Local Plan was hugely controversial due to changes to the Greenbelt and housing allocations in the countryside. We were told that in part, the public backlash resulted in a change of political administration in the local elections in May 2019. This brought many new members into the Council and onto Planning Committee which also saw a change in Chair in 2020. Guildford remains an area of high environmental constraint and acute housing shortage with very high average house prices of £561,267 in July 2020 against average prices in England at £254,423.

1.5 Planning performance as measured by speed and quality of planning decisions is good with appeals performance in the last year especially high. The development management service is competently managed while Planning Committee members are mostly knowledgeable in relation to planning and very enthusiastic and passionate for their local areas.

1.6 In 2017 the Council reviewed the operation of the Planning Committee with the result among other things of reducing its number from 23 to 15; this meant a move away from a ward member for each ward being represented on the Committee. While the Council protocols and guidance for the Planning Committee are very clear and comprehensive, we found a lack of role clarity among some members. Some new members saw their role on the Committee as representing the views of local residents as opposed to focusing on the needs of the whole Borough in line with the Council's up to date Local Plan. This has led to some fractious meetings and the refusal of some housing applications against officer advice and the thrust of the Local Plan. Such decisions are also out of kilter with the thrust of the Corporate Plan and Housing Delivery Board. Such overturns will often inevitably end at appeal and be costly and time consuming for the officers and the Council.

We see the need for Group Leaders and the Monitoring Officer and the use of appropriate training to support members in ensuring their clear interest and passion for planning to be focused on the role required while sitting on Committee.

1.7 The Planning Committee is well chaired and good joint working between democratic services, development management and members has enabled a good transition to 'virtual' Committees. We found a good focus on supporting continued public engagement using the online platform. However, some of the meetings are very long and lasting until 22.50. We provide some recommendations for making these more efficient and user friendly - such as reviewing the types of application coming before Committee for decisions.

1.8 More collaborative working between officers and members has the potential to help rebuild trust and confidence in the lead up to and operation of the Planning Committee. This lack of confidence between some members and officers has had a negative impact on the perception of customers and stakeholders who attend Planning Committee. We recommend more opportunities for stronger communication between members and officers before Committee. This should involve creating opportunities for officers and members to discuss appropriate issues outside a formal Committee process – a clearer 'open door' policy. We also see more potential for more strategic and tactical use of the Chair's briefing allowing officers and the Chair to be as alert as possible to the flow and upcoming issues at Committee. We also recommend reviewing the extent to which officer reports could more clearly evidence where, in balanced decisions, they have placed their own 'weight' in the assessment of competing policies. Members feel that this would provide them with clearer guidance as to where they could legitimately place different weight in the assessment of policies.

1.9 In order to strengthen the Committee's focus on taking clear and defensible decisions we agree with the majority of people we spoke to that modifications are required to the existing practice of 'adjourning in public' during the meeting. This, plus reconsidering the process by which officer recommendations are presented to Committee would support the principle of taking open and transparent decisions but with the best chances of success at any subsequent appeal.

1.10 Parish council and special interest groups take a great interest in planning in Guildford and take their consultee roles very seriously. Parish councils would like to be more involved in appropriate training and would value a permanent slot in public speaking if they so wished. We consider this commitment from Parish councils should be welcomed and possible changes made to Planning Committee procedures to allow for this.

1.11 Developers/agents consider that Planning Committee decision making is uncertain and far too much like the 'roll of a dice'. This has brought some of its decisions into disrepute especially after some have been the subject of extensive consultation and engagement with local communities, officers and ward members. If the Borough is to address its acute housing shortage more quickly, the development industry wants to see more consistent decisions in line with the Local Plan. The Council also needs to maintain sufficient housing delivery to ensure that planning policies do not become out-of-date

2.0 Recommendations

R1. Provide greater certainty in planning process by ensuring decision making conforms with planning policies and material planning considerations acting on behalf of the whole Guildford community and ensuring that there is clear separation between ward level responsibilities and decision-making role on Committee.

R2. Explore ways to rebuild trust and confidence between officers and Members. Consider running an independently facilitated workshop to be held between officers

and Members, separate to the Planning Committee meeting, to better understand their roles, issues and concerns.

R3. Examine ways for Planning Committee and relevant officers to discuss and learn from appeal decisions to ensure that decisions on planning applications are undertaken, on behalf of the whole Guildford borough community, in a fair, impartial and transparent way. The present system tagged onto the end of often long Planning Committees is not conducive to creating a learning atmosphere.

R4. Review Planning Committee reports to see if further explanation can be given on the weight to be afforded to the Local and Neighbourhood Plan policies as well as material planning considerations such as the National Planning Policy Framework (NPPF).

R5. Ensure planning officers and Committee members are more aware of the impact of what a lack of housing delivery has on the weight given to Local Plan policies and kept appropriately updated on the work of the Housing Delivery Board.

R6. Review the opportunity for further guidance in the form of a supplementary planning document to help guide new high quality and sustainable development.

R7. Review the Planning Committee referral system focusing particularly on the Member referral process (7-day procedure) and householder referral system to ensure that applications are not unnecessarily delayed and Planning Committee can focus on the strategically more important applications.

R8. Revisit the site visits protocol with particular emphasis on who attends and on ensuring a consistent approach of officers and conduct of members during the site visit.

R9 Review the member overturns process so that alternative motions are raised by Members and advice is provided by officers prior to the officer recommendation vote being made.

R10. Undertake bespoke probity in planning and appeals training for members with a neutral facilitator, for example, someone who has direct experience of being a Planning Inspector.

R11. Review public speaking opportunities for Parish councils and special interest groups.

R12. Examine the possibility of setting up a Task and Finish joint officer/member group led by an independent, senior, well respected person to take Peer Review recommendations and other improvement needs forward. Take advantage of viewing the operation of other Planning Committees to aid learning.

3.0 Background and Scope of the Peer Challenge

3.1 This report summarises the findings of a planning improvement peer challenge, organised by the Local Government Association (LGA) in cooperation with the Planning

Advisory Service (PAS) and carried out by its trained peers. Peer challenges are managed and delivered by the sector for the sector. They are improvement orientated and are tailored to meet the individual council's needs. Designed to complement and add value to a council's performance and improvement they help planning services review what they are trying to achieve; how they are going about it; what they are achieving; and what they need to improve.

3.2 The aim of the peer challenge was to review the operation and conduct of Guildford's Borough Council's Planning Committee, along with examining some detailed procedures and practices specifically mentioned by the Council.

3.3 Our review took the form of an analysis of the Council's background and context statement in relation to the functioning of the Planning Committee, watching a Planning Committee on line, reviewing some supporting documents and structured interviews with political leaders, planning committee members, senior managers and parish councils. Due to the continuing impacts as a result of Covid 19, interviews were conducted online.

3.4 Peers were:

- Tracy Harvey - Head of Planning and Building Control at St Albans City and District Council;
- Councillor Linda Robinson (Conservative) Lead Member Peer, Wychavon District Council;
- Peter Ford - Head of Development Management, Strategic Planning and Infrastructure Department, Plymouth City Council; and
- Robert Hathaway - Peer Challenge Manager, Local Government Association Associate

3.5 Where possible, PAS and the LGA support councils with the implementation of the recommendations as part of the council's improvement programme. A range of support is available from the LGA at <http://www.local.gov.uk>. It is recommended that Guildford Borough Council discuss ongoing PAS support with Rachael Ferry Jones, Principal Consultant, Rachael.Ferry-Jones@local.gov.uk and any corporate support with Mona Sehgal Principal Adviser, Mona.Sehgal@local.gov.uk

3.6 As part of the peer challenge impact assessment and evaluation, PAS and the LGA will contact the council in in 6-12 months to see how the recommendations are being implemented and the beneficial impact experienced.

3.7 The team would like to thank officers and members at Guildford Borough and everybody they met during the process for their time and contribution.

4.0 Detailed Feedback

4.1 Vision and Leadership

4.1.1 The Planning Committee benefits from clear and specific written procedures that are highly prominent in the Committee agenda and re-emphasised in the Chair's introduction. The Committee is well chaired, characterised by good adherence to procedures such as its 'rules of debate'. Both members and supporting officers have adapted well to the virtual Planning Committees that started in May 2020 after a hiatus in March and April 2020 due to the Covid 19 pandemic.

4.1.2 The recently adopted Local Plan provides clear and up to date direction for land use management and planning decision making in the Borough. In April 2019 the Council adopted its Local Plan: Strategy and Sites 2015 – 2034 informed by an up-to-date, extensive and robust evidence base. In order to provide land for the 10,678 additional homes required, the Council has allocated major strategic sites, some on undeveloped land in the countryside. The plan also makes provision for approximately 1,200 dwellings on non-strategic sites within and as extensions to existing villages, some of which are now inset from the Green Belt. It has a strong focus on providing 40 per cent affordable housing on appropriate housing sites to support meeting the acute housing shortage.

4.1.3 However, the Local Plan has been locally very controversial. It has been the subject of three legal challenges and one appeal which were all dismissed. It also provided part of the background to the changes in political leadership at the Council in May 2019.

4.1.4 Not all members of the Planning Committee are clear of their role while sitting as Committee members. Members are clearly knowledgeable and passionate about their local areas but a minority are not recognising that their role while sitting on Planning Committee is to represent all the wider needs of the Guildford community. While the role of Planning Committee members is clearly set out in the Council's 'Probity in Planning' document, it was clear to the peer team that at least some members of the Planning Committee seemed fettered in their decision making by the campaigning stand they had taken against the adoption of the Local Plan. Indeed, a minority of members advised the peer team that they saw their primary role on Committee as representing their residents' views, even if that brought them into conflict with the policies of the Local Plan. This is clearly unacceptable.

4.1.5 Currently, Planning Committee members are expressing significant differences of views on the application of adopted planning policies in relation to certain applications. This is especially the case for housing applications on inset land in the Greenbelt often played out between some new Planning Committee members and longer serving Committee members. This has resulted in some significantly controversial planning decisions on housing applications. Political Group Leaders are aware of this tension and are working within their groups to reinforce the distinctive role of Planning Committee members over and above their role as ward councillors.

4.1.6 We discuss this need for greater teamwork throughout the report but we see a significant need for rebuilding trust and confidence between at least some members and officers. For now, suffice to say, there is a clear need for the Committee to act in a more consistent and collaborative manner, working much harder to respect the different but complementary roles that officers and members have to perform. They also need to demonstrate and respect these differences in a mature and professional manner.

4.1.7 Given the significant need for new housing in the Borough, any unnecessary delays through the development management process are to be avoided. This is important if the Council is to have a chance of meeting its objectively assessed housing needs. The Borough has underperformed in enabling the delivery of sufficient numbers of houses for a long period. The Council's 2019 Housing Delivery Test measurement for the whole Borough is 83 per cent of its housing requirement over the three previous years. This underperformance has demanded the production of a Housing Delivery Action Plan.

4.1.8 Refusals of some notable housing applications are delaying market and affordable housing and are out of sync with the objectives of the Housing Delivery Board and Local Plan Working Group. The Board has been active in monitoring progress against housing delivery targets. The Board has also received and commented on the Council's Housing Delivery Action Plan (2020), which assesses the causes of under-delivery and identifies actions to increase delivery in future years. The Board will continue to monitor and provide comment in relation to the delivery of sufficient housing to meet the requirements of the Local Plan. Clearly delays in approving development on adopted and consented schemes runs counter to the corporate needs of the Council for its existing and future residents. Also, it is important for the Council to recognise that if sufficient homes are not delivered then there is a risk that planning policies will be out of date and the local environment will be vulnerable to speculative development that runs counter to a plan led system and the benefits that having an up to date plan affords the Guildford Borough Council area.

4.1.9 The peer team also considered that Planning Committee members were not sufficiently attuned to financial implications of its decisions for the whole Council. A report on this has recently been considered by Corporate and Governance Standards Committee on appeals and costs, and any actions arising out of this need to be carefully considered. This is to become a rolling six monthly report and linked to our recommendation about learning from appeals, needs to become a helpful tool/process to assist in examining evidence based decision making. While the Council's appeals record in defending its planning decisions is improving it clearly needs to be mindful of the fiscal implications of its decisions. Given the very difficult financial positions of most councils due to Covid 19 and loss of income and additional workloads – this has perhaps never been more necessary.

4.2 Development Management Decision Making

4.2.1 The development management team is well led with a chartered town planner of significant experience and expertise supported by planning development managers who manage a team of approximately 35 staff covering development management, enforcement and planning administration. Case officers who we heard presenting at Planning Committee form a very competent team of planners. In the face of working in a very challenging atmosphere at Planning Committee and with very high workloads, we were impressed with the professionalism shown.

4.2.2 The development management service continues to benefit from significant service improvements implemented in 2017 as a result of a recognised need to modernise aspects of the operation of the Planning Committee and its supporting procedures. One aspect that we were told has benefited from member and officer joint work is the improvements to officer presentations and reports. Officer reports are comprehensive while presentations at the virtual Planning Committees were well prepared and confidently delivered. Indeed, the graphical images accompanying the presentations such as site plan and pictures were much better through watching on the Microsoft Teams platform used by the Council.

4.2.3 Members of the Planning Committee wanted to see further changes to officer reports in order to provide them with a better understanding of where the officer had applied relevant weight to planning policies and other material considerations. This they felt would then provide them with a stronger and clearer understanding of where they could legitimately apply different weight in arriving at the appropriate planning balance. We think there is merit in exploring this further. Officer reports to Committee could help members to focus on areas where they have the ability to weigh evidence differently to them. Some councils seek to focus their case officer's reports on areas of planning policies and material considerations where their members have the liberty to weigh evidence differently to officers. They do this through clear summaries and highlighting key areas for members' attention. This can also help the Chair in steering member's attention away from questions and long debates on non-material considerations. It could also help in assisting officers in the writing of appeal statements if the officer recommendation is overturned by the Planning Committee.

4.2.4 In determining weight in the planning balance, it is also important for members to be mindful of their discretion in relation to technical matters when questioning officers and when in debate mode. In planning decision making it is an established principle that while *'weight is a matter for the decision maker, (but) in expert areas (for example habitats, flooding, highways, heritage) there are bodies whose views should be afforded considerable weight in the absence of cogent reason to the contrary'*. (*Wealden v Secretary of State for Communities and Local Government 2017 EWHC 351*).

4.2.5 The Council's Planning Committee deals with a large percentage of 'householder' and 'others' applications in its meetings. So far in 2020, the Committee has dealt with 50 applications deciding 14 'majors', 18 'minors' and 18 'householder' and 'others'. This means that over one in three applications decided by Committee are small scale householder applications. The peer team consider that the Council needs to challenge whether the skills and capacity of its Planning Committee are "appropriately concentrated on the applications of greatest significance to the local area" (Planning Advisory Service (PAS) Probity in Planning). This is particularly pertinent when the time taken to decide such small-scale applications is disproportionate to their importance with many such applications taking well over an hour to debate.

4.2.6 Given that the thresholds for automatic call in to Committee for a householder application are relatively high at 10 letters of support/objection contrary to the officer recommendation, the answer probably lies in examining some form of half-way house between an officer delegated decision and a full Committee decision. Some councils such as South Hams District Council in Devon decide such called in applications by delegating authority to the Head of Planning but in consultation with the Chair and ward member. Wychavon District Council operates a Delegated Panel Procedure for smaller applications involving the Head of Planning in consultation with Chair, Vice and ward member (see section 5 for more details). Another solution is that the Council could consider removing the automatic referral, since it could potentially be abused by organised individuals relying on ward members to refer the application if they considered it is in the interests of their ward.

4.2.7 We see greater opportunities for ward members, Planning Committee members and officers to work together more productively at pre-application stage and prior to the Planning Committee. On large scale applications with Planning Performance Agreements (PPAs) formal significant opportunities exist for members, parishes, local residents and

special interest groups. However, there is less opportunity with smaller pre-applications until a planning application is submitted.

4.2.8 We received mixed views from Committee members in relation to their willingness and confidence to discuss planning applications at an early stage with case officers. Some members had prioritised this and felt that they had had productive discussions with case officers early enough in the application cycle when there were more opportunities to influence the development or discuss mitigation. Other members did not adopt this same practice with some wrongly feeling that this brought them too close to a form of predetermination. This would not be the case as long as normal protocols about keeping an open mind and not showing bias were followed in any discussions. Plymouth City Council adopt this practice which is written into their Planning Committee protocol and we would encourage the Council to explore this further.

4.2.9 Both members and officers said that they would also value more informal contact between them in advance of the preparation of Committee reports and the period once Committee reports are made public. This has clear potential for members to ask questions of officers in advance of reports being written to enable officers to ensure that appropriate member issues are covered. It also allows members to clear up any queries they have on the proposal in advance of the Planning Committee that can improve its efficient running.

4.2.10 One clear area for change that could assist earlier communication between ward councillors and officers is a review of the 7 day notification procedure. The present arrangement means that if an objection contrary to the officer recommendation has been received, a decision cannot be issued until opportunity is given for a ward member to comment. This can result in the application then going to Committee. We recommend reviewing this to a front-loaded system to encourage earlier engagement that gives case officer and applicant more scope to consider making any changes to address concerns. For example, the Planning Committee notification could be moved to within the 21 day statutory public consultation stage which could then be withdrawn if councillors were satisfied with negotiations that subsequently take place.

4.2.11 Revised procedures since 2017 which promoted site visits in advance of Planning Committee have helped prevent unnecessary deferrals. While site visit protocols and guidance are in place, some Planning Committee members and officers raised concerns about the need to ensure stricter adherence to published guidance and best practice to avoid perception of bias. For example, it is importance to ensure that Planning Committee members are strongly discouraged from drifting off into groups on site to avoid any concerns about bias. To clarify, the peer team saw no evidence of this as site visits are currently suspended due to COVID, however this matter was raised as a concern from a number of different sources during the peer review.

4.2.12 Training for members is mandatory before they are allowed to sit on Planning Committee although as we commented earlier, the one vital area of role clarity remains a significant concern. We recommend that further training in Probity in Planning covering the role of a Planning Committee member is undertaken. This needs to be delivered in a way that will connect with members. Possibilities include member to member delivery and learning from viewing other Planning Committees.

4.2.13 Prior to Covid 19 there was a good series of themes covered in bite size training just before Planning Committee including parking and highways and biodiversity. Opportunities exist to further develop learning and development through possibly a more member led approach on issues that they consider important. From the more contentious

applications recently considered at Committee these would appear to cover matters such as housing policy and mix in relation to the Strategic Housing Market Assessment, 'very special circumstances and design in the Green Belt, and the identification of harm in developing reasons for refusals. In order to support effective decision making it would be helpful to ensure that strategic housing officers, relevant policy planners and any other specialist officers are available at relevant Committee meetings. Given current tensions around the application of Local Plan policy on Greenbelt and the Strategic Housing Market Assessment housing size mix this may help bring up to date and relevant expertise into the discussion.

4.3 Operation of Planning Committee

4.3.1 Since 2017, changes made by the Council in a review of its Planning Committee's procedures and practices provide very clear guidance to officers, members, applicants, objectors and stakeholders and are prescribed in its Probity in Planning guidance and Constitution. At that time the Council also reduced the number of members of the Planning Committee to 15 and we were told that this has increased levels of participation.

4.3.2 We referred earlier to the comprehensive guidance and procedures relating to the operation of Committee. These are prominently and helpfully located at the front of the Planning Committee agendas and are clearly articulated by the Chair at the start of each meeting. The Chair and Vice Chair recognise that this takes time at the start of each meeting and want to consider ways to possibly shorten this section. While this is very sensible given the length of meetings (which we pick up later in this section) there is strong merit in reinforcing the messages around probity in planning, mutual respect and taking defensible decisions in line with the Local Plan especially given our findings presented earlier.

4.3.3 The Chair is relatively new to the role but despite this she demonstrated clear competencies and skill in the role. The Committee meetings followed a clear pattern with the Chair maintaining good order and direction to the Committee. The Chair is well supported by the planning development manager, case officers, the legal officer and the democratic services officer. We recognise the difficulties in the virtual Committee setting of ensuring that officers can 'catch the eye' of the Chair (and vice versa) to come into the debate at the appropriate time. It is important that opportunities are not lost to provide direction and support to members through the Chair as a result of the virtual platform.

4.3.4 One discipline that we felt was good practice within the Council's 'Rules for Debate' was the adherence to a three-minute speaking rule not only to public speakers and ward councillors, but also to Members of Committee themselves. The Chair was well supported by the democratic services officer in ensuring fairness and promoting efficiency at the meeting. However, despite this, and as found at most virtual Committee meetings in other councils, Guilford's Planning Committee meetings are generally taking longer. Since the introduction of the virtual Planning Committee at Guildford in May 2020 meetings have started at 19.00 and four meetings have lasted until at least 22.40, with the longest ending at 22.50. There are clear dangers in terms of effective decision making at that time of night as tiredness kicks in and concentration levels fall. This perhaps is more accentuated during this Covid 19 pandemic, given the very long hours both members and officers spend on screens through 'Zoom' or 'Microsoft teams' leading to a kind of 'virtual fatigue'.

4.3.5 One obvious way to seek to avoid this is to start meetings earlier than 19.00. We are aware that officers took this suggestion to Planning Committee members in May/June

2020 but were told that the starting time needs to stay at 19.00 and that change would be very difficult given working patterns and daily commutes for some members. However, we consider that the Council needs to revisit this and now maybe a good time to do this especially as presumably most members who are working are working from home? The Council already has a notional cut off at 22.30 in its procedures but of course if the last planning item is already being discussed it does probably make sense to see that through rather than reconvene the day after. The other way to cut the length of meetings is to deal with less householder applications as discussed earlier in this report. Finally, a very important discipline is for Planning Committee members only to speak when adding value to the debate as this unnecessarily draws out the length of the meeting.

4.3.6 The Chair's briefing is seen as a valuable meeting attended by the planning development manager, case officers, and the legal and democratic services officer. It is held once the agenda and reports are made public. Given the need to improve collective working between Planning Committee members and officers and given the relatively high numbers of recent overturns (all three officer recommendations in the October 7 2020 meeting were overturned) we see opportunities to use the Chair's briefing for more tactical preparation for Planning Committee. This could involve ensuring that any early indications of Committee member's concerns were covered, likely key questions anticipated and the ground considered and prepared for any alternative motions. Indeed, it could be argued that holding the Chair's briefing in advance of the finalisation of the agenda and officer reports (as practised in some other councils), provides even more opportunities to foresee issues and manage the decision-making process more effectively. This would lead to mutual support and stronger preparation in advance of Committee.

4.3.7 The Planning Committee does not always seem to operate as one team. This is perhaps epitomised by comments we heard from some Planning Committee members, ward members, corporate officers in the Council and planning managers who referred to Committee as 'the battleground' and decision making as 'a lottery'. We fully recognise that Planning Committee is not a rubber-stamping exercise and members are entitled to weigh things differently to officers. But this has to be subject to policy and legal tests of materiality. Training in Probity in Planning has been tried but has not had the full desired impact. We recognise that new councillors who are members of the Planning Committee are on a learning curve. We are also encouraged by the self-awareness shown by the administration's Group Leaders in commissioning the Peer Review. But role clarity and evidence-based decision making is vital if the Planning Committee is to function appropriately in taking consistent and defensible decisions in support of the Local Plan into the future.

4.3.8 We appreciate the political context and environment that planning decisions are presently taken in. Indeed, the political battle over the adoption of the Local Plan has clearly created divisions between some of the large number of new Planning Committee members, some longer serving Committee members and planning officers – a tension played out visibly at Planning Committee. A large number of people we spoke to said that Planning Committee did not exhibit high levels of collaborative working and was characterised by too much of 'them' and 'us'. Some Committee members considered that officers were too pro-development while officers considered that some members were determined to always go against officer recommendation if local residents opposed the proposal. Indeed, we were told that this tension had led to personal criticism of officers by members and that some planning officers are feeling demoralised and undervalued by the attitudes of some Planning Committee members. Interviews with special interest groups, developers and agents and some parish councils indicated that attitudes shown were

having a negative impact on the way that Committee is perceived by the public and other stakeholders.

4.3.9 Group Leaders are very clear that members of the Planning Committee should stand down from the Committee and speak as ward councillors if they want to be seen to represent the views of residents at Planning Committee. This accords with the Council's guidance and best practice. Our view is that if this continues into the future, Group Leaders may need to consider whether the members on the Committee have the right blend of competencies and skills to provide democratic accountability for the whole Borough. We would also expect Group Leaders to continue to take advice from the Council's monitoring officer on this matter as well.

4.3.10 We found very little support from officers, the majority of members, developers/agent and stakeholders for the Committee's adopted practice of 'Adjourning in Public' known locally as 'The Huddle'. This involves the Chair and proposer and seconder of a motion discussing with planning officers, and where relevant, legal officers, appropriate refusal reasons or conditions. This is to ensure that they are sufficiently precise, state the harm and support the correct policies to justify the motion. However, the majority of people we spoke to said the process could be adversarial, had the appearance of decision making on the hoof and looking unprofessional with an amateurish name that was not befitting the importance of a planning decision.

4.3.11 We fully recognise the reasoning behind the adjournment that seeks to ensure defensible decisions are taken which give the Council maximum opportunity to defend any appeal and avoid costs being awarded against it. And the fact that it happens in an open forum rather than a previous system of 'in camera' is helpful to avoid accusations of bias.

4.3.12 The peer team want to link our recommendation to improve on the 'The Huddle' to the need to review the process and sequencing of alternative motions to support greater clarity in decision making. At present the procedure at Committee is that once the debate has concluded, the Chair will automatically move the officer's recommendation. We witnessed a number of examples where it was very clear from the debate that Members were not going to accept the officer's recommendation to approve the development. Despite this the Chair's correct adherence to the agreed protocols meant that the motion had to be put and following an awkward silence awaiting a seconder, the officer's recommendation duly fell. An alternative motion with discussion about reasons for refusal then followed and once seconded the Chair called for 'The Huddle'.

4.3.13 We see opportunities to strengthen this approach. Once it is clear that Planning Committee members are set on a certain direction that is contrary to the officer's recommendation it is suggested that an alternative motion is requested and if seconded, then the planning and legal officers offer clearer and more proactive support to members to agree defensible reasons. These reasons- including planning conditions as necessary- should be established before the Committee votes for transparency for all members and the public. If officers cannot identify from the debate a defensible reason for a motion contrary to the officer recommendation then members still have the opportunity to revisit the original officer recommendation without having voted. Of course, to successfully adopt this approach, members, the Chair and officers will have to be well prepared. The Chair and officers should read the political signals as the debate ensues. Members should adequately identify the 'harm' that would occur if the development were to be allowed. Members should consider within their debate;

- What is the harm? For example, depth and height and proximity to the boundary;
- Why is it harmful? For example, overbearing impact to X; and
- What is it contrary to? For example, development plan policies.

4.3.14 Our recommendations about more officer/member engagement, stronger Chair's briefings and officer reports with more discussion about appropriate balance and weight play into upfront work that can help effective decision-making.

4.3.15 In situations where planning and legal officers do not consider there are reasonable prospects of the Council successfully defending the appeal on planning grounds, or where such action may put the Council at fiduciary risk, then they need to, and be encouraged to, report this without fear or favour. After receiving officer advice, the vote then takes place on the alternative motion. The crux is that this process allows Members to fully consider the risk of the alternative motion whereas the current situation means that the officer recommendation can fall without **any** significant consideration of the risks associated with reasons for refusal. In all of this we appreciate that fiduciary risk is a non-material planning consideration so needs to be dealt with and introduced carefully.

4.3.16 Members of the Planning Committee asked the peer team about the practice of needing sound planning reasons to defer the determination of applications at Committee. Planning applications should be decided efficiently and any deferrals should be based on sound planning reasons. The number of deferrals should be minimised as it is an inefficient use of Committee time to bring applications back for decision. Officers and members need to ensure that they make the most effective use of conditions and officer delegation to meet member requirements and avoid unnecessary delays in decision making.

4.3.17 In the Planning Committee meetings, we observed a high number of abstentions. This was particularly evident at the November 4 2020 meeting. This does not represent good practice as members are selected for Committee on their ability to be able to make sound judgements on the basis of the evidence before them and not to 'sit on the fence' or to be fearful of being seen to vote one way or another. This can demand strength of character but this is what is required of Planning Committee members.

4.3.18 We were also asked for our views on the weight that should be given to precedent decisions and the extent to which the views of officers should be consistent on the issues of precedence. All applications have to be taken on their merits and based on the particular facts and characteristics of each site. No two sites or developments are ever the same. Neither the Council should rely on the precedent principle in its decision making, or the applicant in advancing their case to allow development. There is clear case law on this issue. What officers can do is to advise members of the weight given to previous decisions based on case law and appeal decisions. Then members are in a good position to consider if they agree with the weight suggested by officers.

4.3.19 Finally, we consider that the Planning Committee needs to ensure that it benefits from constant learning and refocusing. Opportunities to strengthen this include:

- debrief between officers and Members particularly after virtual meetings;
- ensuring sufficient time to learn from and discuss appeal decisions, rather than having to rush through an item last on a list late at night;

- revitalise, incentivise and encourage stronger Planning Committee attendance at the bi annual visits to the 'good, bad and ugly' built developments to assess the quality of the decisions and the development; and
- create the opportunity for officers and Members to discuss Planning Committee processes outside of the formal Planning Committee meeting so that they can better understand their roles, responsibilities and concerns.

4.4 Community, Partners and Outcomes

4.4.1 Democratic services, planning and supporting ICT officers have worked well to bring Planning Committees on line. The Council's March and April Planning Committees were intentionally cancelled to provide time to go through some intensive training to set up and make the 'virtual' Planning Committees work. While some councils moved faster and only lost one Planning Committee at the start of the Covid 19 pandemic, the Council very helpfully introduced an extra meeting in August to cover a backlog. The management decision to move the service to paper light and into full electronic delivery some two years ago has proved vital to maintaining a good service to its customers and to the Planning Committee during this Covid 19 pandemic given staff having to work from home.

4.4.2 We recognise that in particular this has been a steep learning curve for members of the Planning Committee but they seemed to have adapted well. We received very little feedback concerning any major technical difficulties that prevented Committees from functioning appropriately. The peer team appreciate some of the limitations of the Microsoft Teams platform that most councils seem to use.

4.4.3 The peer team found comprehensive guidance for members of the public on how the Committee is run and how to take part. We found accessing the live on-line meeting and accessing previous webcasts of the Committee relatively easy. The Council helpfully provided separate wide-ranging guidance for the public on accessing the virtual Planning Committee as well as advice on how to participate if required. One area of good practice was the service provided by democratic services whereby, during the Committee, public speakers were notified when their application was coming up. This allowed public speakers to not have to sit through hours of Committee deliberations on other applications that they were not interested in.

4.4.5 In relation to public engagement we were particularly asked for our views on whether Planning Committee members and speakers should be allowed to show photos and materials at Committee. The peer team's view is to stick with current practice of not allowing this as there is too much potential for difficulty in relation to openness and transparency for all parties. We suggest maintaining the reliance on professionalism of officers to show relevant information in the report and via presentations that can assist a consistent and fair approach in the wider public interest.

4.4.6 Some areas for the council to consider to possibly improve the 'viewer experience' while operating as a 'virtual' Committee include:

- Members of the Planning Committee being labelled as such for clear identification;
- speaker's cameras turned on when speaking and the speaker highlighted on the viewer's screen;
- avoiding use of the 'chat' facility to promote alternative meeting type scenarios which are then played into the online discussion leaving people outside the 'chat' facility confused as to what is happening; and

- Members reminded that the Planning Committee is live and recorded and to not allow the 'home' surroundings and 'virtual' Committee to lull them into a false sense of security and use inappropriate phraseology or language; and
- avoiding the display of telephone numbers on the screen when speakers are invited into the meeting.

4.4.7 Outcomes in terms of planning performance assessed by Government measures such as speed of deciding applications and quality of decisions as measured by appeals decisions are very good. Figures for 01/01/20 to 25/11/20 show planning performance in deciding 'major' applications within 13 weeks (including agreed extensions of time) is currently 98.00 per cent, while 'minors' decided in 8 weeks is 8100 per cent. These are both well above local and national targets. 'Householders and others' at 84.00 per cent of decisions in 8 weeks is only marginally below the 85 per cent target and with the heavy increase in workloads and capacity issues caused by Covid 19 this is good performance. Performance of appeals has risen over the last three years from only 50 per cent in 2017 to 84 per cent at present.

4.4.8 We would mark out as good practice the positive focus on the use of performance information in the planning service. This is clearly not a 'nice to have' but forms a strong part of management and support to the direction and focus of the service. For example, the Development Management Headline Statistics focus on a wide range of indicators such as income, pre-applications and planning performance agreements and appeals information.

4.4.9 The planning system can demonstrate that it is adding value to planning applications submitted to the Council. Examples include Grange Park Opera, a new opera house in the Horsleys and works to protect the stunning Grade 1 listed house and a recent permission for Royal Horticultural Society Wisley which involves a substantial remodelling of front of house and a new education centre to the rear. Both members and officers mentioned the comprehensive programme of consultation with councillors, special interest groups and the local community in relation to a large 520 house scheme at Garlick's Arch that supports a current planning application.

4.4.10 The increasing move by the Council to direct developers/agents to parish councils and the variety of special interest groups (such as Guildford Vision Group, Guildford Society, Normandy Action Group etc) as part of pre-application consultation is welcomed. The peer team found a clear desire among such groups to take part in early consultation to ensure, as far as possible, that local needs and concerns were reflected at the earliest stage in emerging plans and designs. The involvement of special interest groups in Guildford town is particularly necessary give the absence of a Town Council.

4.4.11 Parish councils, while consulted on applications, considered that the planning service could do more in terms of giving greater prominence to its views as to the 'local voice and expertise' on planning matters affecting their villages or areas. They also felt that the feedback loop in terms of what happens to their representations could be improved. The planning service does record the statutory consultation responses from parishes in officer reports and parish councils can use the opportunity of one of the two public speaking slots if it acts efficiently in making appropriate requests. However, we do recognise that the timing of Parish council meetings can militate against this. Given that there are two public speaking slots both either in 'support' or in 'objection' to an application there could be opportunities for the Parish councils to be offered first refusal although the full details would need to be thought through.

4.4.12 What was clear from talking to both Parish councils and special interest groups was that the stronger the relationship and communication channels that these groups had with their Borough councillors, the better they understood and were able to ensure their views were transferred. Parish councillors and clerks would also like to be invited or be offered appropriate training in areas such as material planning considerations and defensible reasons for refusal and were looking to the Council to support them in this. In this way they were showing self-awareness that on occasions, Parishes recognise that they are not always able to clearly articulate their concerns using the best planning reasons.

4.4.13 In speaking to developers/agents, their major concern was that despite having a very recently adopted and therefore up to date Local Plan, the operation of the planning system at Guildford was not providing them with any certainty. They considered that decisions at Committee were a 'roll of the dice' and that the debate and decisions were damaging the reputation of the Council and undermining business confidence in investing in Guildford. This was even more so when especially large schemes had been through extensive pre-application advice, local community and member engagement – only for that to be disregarded when it came to the actual decision.

4.4.14 Most of the developers/agents we spoke to had been involved in Committee decisions and had been surprised at the adversarial and non-collaborative culture between some members of the Committee and officers and the lack of respect and trust. Given that this Committee should be the 'shop window' for how Guildford takes decisions in public, they considered that this did not reflect well and needed to change.

4.4.15 The peer team do not concur with a minority view from some Planning Committee members that Guildford's planning officers are unbalanced or overly biased towards development. Planning managers and officers are providing the Planning Committee with their professional judgement based on the Local Plan that recognises that the Borough needs significant growth to meet local housing and employment need. Developers/agents told us that Guildford's planners are hard negotiators and no push overs and have a strong team of experts both in house and external to support their professional judgements. We have already considered earlier how officer reports can be amended to focus on the issue of 'weight' given to policies and also to ensure they provide maximum support to members when they want to apply a different weight to those ascribed by officers. However, in the absence of any change in Local Plan policies, officers need to continue to provide their best professional judgement to Planning Committee members of the Planning Committee, irrespective of the political background to the Local Plan Sites and Strategy

4.4.16 Clearly delays in allowing appropriate development frustrates the Corporate and Local Plan aims of significantly increasing housing, especially affordable housing, to meet local needs. It also works against the thrust of the Housing Delivery and has implications for the delay in infrastructure. We recognise the increased focus of the new administration leading the Council on building one, two and three bed properties for market and social rent. But as recent appeal decisions have shown, the blunt hammer of the sub-regional Strategic Housing Market Assessment needs careful handling and more nuanced consideration that reflects the policies built in flexibility in taking account of a site's size, location and characteristics. In all of this the Planning Committee need to main a good focus on meeting acute housing need in the Borough.

4.4.17 In terms of delay, developers/agents also advised that at present there are significant delays with agreeing and completing section 106 agreements. Without these, necessary consents and funding cannot be drawn down which again slows development

activity on appropriate sites. It is important for the planning and legal services to examine capacity in this area.

5.0 Further Support

5.1 A range of support from the LGA and PAS is available at <http://www.local.gov.uk> and via the PAS website <https://www.local.gov.uk/pas>. Costs may vary.

5.2 Planning Advisory Service (PAS) & LGA Support Offers:

PAS Planning Committee Training & Materials

PAS will work with the authority to deliver to deliver specific training requirements for the Planning Committee.

Short case assessments on areas that support delivering a good development management service can be found at the following website:

<https://local.gov.uk/pas/development-mgmt/planning-applications-support/good-development-management>

PAS has general materials available on available from the PAS website:

- Development Management - Decision making, committees and probity
- Making Defensible Planning Decisions
- Developer Payments - Community Infrastructure Levy, s106 agreements and Viability
- Getting engaged in pre-application discussions
- Design training for councillors

<https://www.local.gov.uk/pas/pas-support/pas-subscribers/councillor-briefings/councillor-briefing-planning-committees>

PAS worked with Association of Democratic Services Officers (ADSO) to produce some materials for committee clerks. This covers an introduction to planning, decision making, motions and amendments, dealing with the public, interests and probity matters.

<https://www.local.gov.uk/pas/pas-topics/planning-committee/materials-committee-clerks>

Other Local Authority Planning Committee and Delegated Decision Making Information

Plymouth planning committee webcasts

<https://plymouth.public-i.tv/core/portal/webcasts>

<https://plymouth.public-i.tv/core/portal/webcasts/enctag/Planning>

Plymouth planning committee public information

<https://www.plymouth.gov.uk/planninganddevelopment/planningapplications/whathappensafteryoumakeplanningapplication>

<https://www.plymouth.gov.uk/planningcommittee>

District Councillor engagement in Pre Briefings

<https://www.plymouth.gov.uk/sites/default/files/ProbityInPlanningPlanningCommitteeCodeOfPractice.pdf>

Awaiting information from South Hams on delegated decision making panels (to be inserted post GBC comments).

Delegated decision making panels (Wychavon)

<http://mgov.wychavon.gov.uk/modern.gov/documents/g4009/Public%20reports%20pack%20Tuesday%2015-Apr-2014%2018.20%20Council.pdf?T=10>

The following three councils are considered to have run good virtual committees:
Brent, Liverpool and West Suffolk

Havant developer consultation forums. Havant has a developer forum that developers present their proposal pre application submission to the council, the public can attend. This may be a charged service.

<http://www.havant.gov.uk/development-consultation-forums>

5.3 For more information about planning advice and support, please contact rachael.ferry-jones@local.gov.uk

LGA Support

5.4 The LGA has a range of practical support available. The range of tools and support available have been shaped by what councils have told LGA that they need and would be most helpful to them. This includes support of a corporate nature such as political leadership programmes, peer challenge, LG Inform (our benchmarking service) and more tailored bespoke programmes.

5.5 Mona Sehgal, Principal Adviser is the LGA's focal point for discussion about your improvement needs and ongoing support and can be contacted at Mona.Sehgal@local.gov.uk

5.6 PAS and the LGA will follow up about the support that they can provide to the council to help address the recommendations highlighted in this report. A further 'light touch' visit will be made in 6-12 months to see how the recommendations are being implemented and the beneficial impact experienced.

Local Government Association 18 Smith Square, London SW1P 3HZ

Telephone 0207 664 3000 Fax 0207 664 3030

Email info@local.gov.uk

www.local.gov.uk

This page is intentionally left blank

Review and implementation of the recommendations of the Planning Committee Peer Review – findings of the Working Group

Recommendations

This report will be set out the following format:

1. initial recommendation of the peer group report,
2. followed by a summary of the discussion,
3. the group recommendation for each point

R1:

Provide greater certainty in planning process by ensuring decision making conforms with planning policies and material planning considerations acting on behalf of the whole Guildford community and ensuring that there is clear separation between ward level responsibilities and decision-making role on Committee.

Discussion

The group considered that the key to this recommendation was the improvement of training offered to Councillors. Prior to Covid, a regular programme was put in place known as 'Bite Sized' training for Planning Committee members. This was held before Planning Committee meetings and related to specific topics. This was well received, however, the group felt that by utilising Microsoft Teams, remotely held training could be offered to a wider group of councillors and not restricted to Planning Committee nights. Additionally, by being more flexible on when they are held longer sessions could be undertaken when the topics would benefit from this. It was agreed that training should be available for ALL councillors and open to officers to attend also.

Group Recommendation

The Group agreed that a regular (monthly) planning training programme, should be reinstated via MS Teams.

R2:

Explore ways to rebuild trust and confidence between officers and Members. Consider running an independently facilitated workshop to be held between officers and Members, separate to the Planning Committee meeting, to better understand their roles, issues, and concerns

Discussion

The group felt that work had been done in this respect and that in several areas relationships between officers and Members had improved. However, there are still areas to improve and there remain concerns from officers over the level of support

received from councillors. It is also recognised that some councillors do not feel they receive support from officers in situations where they do not agree with the recommendations put forward.

The Group agreed that all parties should treat each other with respect and foster an attitude that values each side's point of view. Of specific importance is the understanding that recommendations which differ from individual councillor's views are professional opinions and discussions should reflect this.

The group felt that longer term benefit of Member/Officer workshops would be helpful in improving relationships. Given the proximity to the Council elections in May 2023 it was felt the best time to implement this would be after the elections.

Group Recommendation

The Group agreed to carry over this action to hold an Officer/Member Workshop following the elections in May 2023, if required.

R3:

Examine ways for Planning Committee and relevant officers to discuss and learn from appeal decisions to ensure that decisions on planning applications are undertaken, on behalf of the whole Guildford borough community, in a fair, impartial, and transparent way. The present system tagged onto the end of often long Planning Committees is not conducive to creating a learning atmosphere.

Discussion

Whilst appeal decisions are reported on the committee agenda there is often insufficient time to discuss these in detail. The group felt there was merit in holding specific sessions to review decisions and discuss lessons learnt.

Group Recommendation

The Group agreed that quarterly appeal review sessions be held via MS Teams and facilitated by the Head of Place (or Executive Head of Service).

R4:

Review Planning Committee reports to see if further explanation can be given on the weight to be afforded to the Local and Neighbourhood Plan policies as well as material planning considerations such as the National Planning Policy Framework (NPPF).

Discussion

The group recognised that reports list relevant Development Plan policies (which include Neighbourhood Plan policies) and other relevant documents such as the NPPF. Therefore, the factual content is not an issue, the use of the late sheets can also assist if a particular policy has been omitted. The group considered that the

issue at hand is normally one of weight given to a particular policy matter. If Members feel a particular issue carried more weight than officers have advised, then this is a matter for them, and they are entitled to reach this conclusion. It was suggested that a small working group be convened to look at planning committee reports overall followed by a workshop to communicate its findings to the Planning Committee Review Working Group. The group were uncertain what would be achieved by convening a further working group to explore this. The importance of Members reading the agenda before a meeting and approaching officers if they have any questions on particular policies was emphasised. If a question is only raised on the night officers can only respond with the information they have to hand.

Group Recommendation

The Group concluded that convening another working group was not necessary given there were appropriate mechanisms in place already through which councillors could query policy weight afforded to particular proposals.

R5:

Ensure planning officers and Committee members are more aware of the impact of what a lack of housing delivery has on the weight given to Local Plan policies and kept appropriately updated on the work of the Housing Delivery Board.

Discussion

The impact of housing delivery is recognised as a significant material consideration. The Group felt that incorporating this into the new training programme being formulated would ensure that it is a matter on which Members are better informed.

Training should be focused on the impact of the tests applied to Five Year Housing Land Supply and the Housing Delivery Tests required by central Government. A recent public inquiry in Guildford has highlighted the importance of a robust assessment of these and shown how such figures can be challenged. Members and officers need to be clear that a robust supply does not mean that the Council can ignore new schemes, ongoing delivery of new housing must continue to ensure the Council remains in a robust position.

Comment was made that training could include reference to the Land Availability Assessment which is a key evidence base in preparing housing supply and should also look at up to date build out rates across the Borough.

Group Recommendation

The Group agreed that the topic of housing delivery should be addressed as part of the planning committee training programme and should include an overview of the Land Availability Assessment.

R6:

Review the opportunity for further guidance in the form of a supplementary planning document to help guide new high quality and sustainable development.

Discussion

The group felt that this was a recommendation which fell outside of its remit, workstreams within the planning policy team are looking at the adoption of 'part 2' of the local plan in the form of the Development Management Policies and the production of additional SPDs to support decision making.

Group Recommendation

The Group agreed that no action was required with regard to the above point as the SPDs and DPDs were all documents currently being worked on by the planning policy team and policies coming forward.

R7:

Review the Planning Committee referral system focusing particularly on the Member referral process (7-day procedure) and householder referral system to ensure that applications are not unnecessarily delayed and Planning Committee can focus on the strategically more important applications.

Discussion

This recommendation was discussed at some length by the working group. Information was presented on how the current practice operates and the issues created in terms of delay etc. Councillors recognised that the focus of the referral system on the end of the process created a significant bottleneck. Information was also presented to Members in terms of benchmarking from other authorities which showed the 7-day process as unique across Councils. Authorities sampled all had a Member referral process, however, this was focused at the start of the application process allowing Councillors to comment at that stage. Officers considered that this approach would encourage better engagement on an application and would enable officers to react more to suggestions received, whereas the current system is designed simply to review a completed report and either agree the recommendation or refer to Committee.

The group agreed that an operational plan be drawn up by the Head of Place and this was discussed through the working group meetings. Overall, the group felt that this offered a number of benefits over the current system and should be taken forward as part of the formal recommendation of the group.

Group Recommendation

The Group agreed that the 21-day notification procedure be included in the operational plan to be considered formally as part of the final report. The procedure would give

councillors the opportunity for earlier engagement with officers and influence the process going forward (see Appendix 3).

R8:

Revisit the site visits protocol with particular emphasis on who attends and on ensuring a consistent approach of officers and conduct of members during the site visit.

Discussion

The group felt that the committee site visit process was working generally well. Requests made upfront are considered by the Chairman and Head of Place and are responded to. There remain some issues around attendance and work continues to encourage members to attend site visits when they take place. All members agreed that general good practice of remaining on site as a group and treating as a fact-finding process only is essential.

Group Recommendation

The Group agreed that no changes were required to the current site visit protocol. Councillors were aware of the need to ask for a site visit ahead of time rather than at the meeting itself which was noted to be useful for councillors in assessing the planning merits of a scheme.

R9:

Review the member overturns process so that alternative motions are raised by Members and advice is provided by officers prior to the officer recommendation vote being made.

Discussion

This area was of particular difficulty as the original Chairman, Mike Holmes, had taken on the role of reviewing this specifically. Whilst an initial flow chart had been provided outlining the process at another authority this had not been reviewed further and no specific process had been brought forward. Therefore, the group had to revisit this recommendation at its final session to discuss further.

The issues originally identified in the review were a concern over lack of transparency in the 'huddle' system and lack of clarity over responsibilities for making alternative motions and outlining reasons.

The group agreed that this is one of the most difficult aspects of Planning Committee procedure and acknowledged that measures employed by different authorities were also wide ranging. Some councils operate a system whereby 'final' reasons for an overturn are drawn up outside of the committee meeting and returned to the next meeting for agreement. The group did not endorse such an approach due to delays and risks of non-determination appeals once a committee resolution is reached.

There was a significant disagreement amongst members over the merits of changing the current system and what should be an alternative model. There were concerns that the processes outlined in the flow charts provided by Mike Holmes would be difficult to manage during a meeting. Officers commented that a debate prior to an alternative motion being made would offer greater clarity on finalising the wording of an alternative motion and assist Members in crystalising their concerns. There have been some occasions where an alternative motion has proved difficult. There should also be greater clarity on the responsibilities of different parties in this process. For example, officers will assist members in formulating reasons where the debate/motion has been clear on the planning/policy reasons. However, they cannot lead councillors to formulating reasons which are not based on sound planning grounds. To do otherwise would lead to the Council being open to challenge.

There were concerns from Members that adding a further layer of debate would add to the time of meetings. It was felt that more work was needed to formulate a process which would work for Guildford, and this remains under consideration.

However, it was acknowledged that part of this issue arises from a lack of a regular review of process. Any new process agreed should be subject to regular 'light touch' review to ensure it is working as envisaged and to monitor its effectiveness.

Group Recommendation

The Group agreed that a clear procedure was needed for councillors to understand and that any reasons given for overturning an officer recommendation had to be robust. The Chairman would need to use their discretion to ensure that the agreed reasons for refusal were stuck to and to limit the debate. The Group asked the Interim Head of Place, to undertake a light touch benchmarking exercise internally as well as with Waverley Borough Council and to circulate it to the Group via email for agreement, prior to incorporation into a report.

(NB. It was not possible for this piece of work to be completed before the Interim Head of Place's departure from GBC. Consequently, it was picked up by the Interim Joint Executive Head of Planning Development and discussed by the Corporate Governance Task Group. The Task Group has recommended the procedure set out in Appendix 4.)

R10:

Undertake bespoke probity in planning and appeals training for members with a neutral facilitator, for example, someone who has direct experience of being a Planning Inspector.

Discussion

The group agreed that specific probity training should be incorporated into the annual training programme. This should be distinct, however, from appeals training as they are two separate issues.

Group Recommendation

The Group agreed that the Probity in Planning training be incorporated into the annual training programme.

R11:

Review public speaking opportunities for Parish councils and special interest groups.

Discussion

A number of options were considered throughout the course of the working group meetings. It was recognised that several group members favoured the principle of a specific public speaking slot for parish councils. However, it was also recognised that not all of the borough was parished and there was a concern over fairness in providing an additional opportunity for representations to be made at the Committee in respect of applications within the parished areas compared to the unparished town area.

Discussion also considered the scope of the issue, specifically around how often it was that a parish council felt they had been unable to speak due to the restrictions in place. It was felt that this was not a common occurrence. Furthermore, the group were aware that despite public speaking arrangements, all comments received are referenced in committee reports and presented to the Planning Committee. It was also recognised that the Chairman retains discretion and can allow additional speaking slots/time. Overall, it was felt that retaining the current practice offered the fairest approach.

Group Recommendation

The Group agreed to the recommendation to retain the current public speaking arrangements but for the Chairman to retain the discretion to allow additional speaking slots for significant applications which was already practised.

This page is intentionally left blank

Process for Councillor ‘call-up’ (referral) to Planning Committee

Applications to be included in this process:

- All planning applications, including S.73 applications
- Listed building consent applications
- Advertisement consent applications
- Tree Work Applications for trees subject to a TPO

Applications excluded from this process:

- Lawful Development Certificate applications
- Prior approval applications
- Section 211 notifications (Trees in Conservation Areas)
- Consultations from other authorities

Process

Upon validation of relevant applications, they will be included on the weekly list of planning applications. Councillors will have 21 days from the date of publication of the weekly list to submit a committee referral.

Councillors will be requested to make one of the following responses:

- No comments
- I have concerns/see potential benefits (these must be planning considerations, directly related to the applications) and would like the application referred to committee. Please indicate planning concerns/benefits:.....
.....
- I consider that due to the specific circumstances/scale of the development it will have wide ranging planning implications and I would like the application referred to committee. Please specify the nature of the wide-ranging implications:.....
.....
- I do not wish to refer the application to Committee, but I would like the following comments/suggestions for conditions taken into consideration:
.....
.....

Where there is more than one Councillor representing a ward, all the ward councillors are able to comment.

Response to be sent via email directly to the case officer and copied to PlanningEnquiries@guildford.gov.uk to ensure that it is recorded on the file and not missed due to officer absence. The request will be detailed in the officer's report.

Where comments are raised that are NOT material planning considerations the case officer will advise the Councillor of this before drafting the report.

Determination/referral to Committee

The referral of the application MUST have regard to the Councillor(s) response and the following scenarios may occur:

- Where "No comments" are specified; or where no councillor response is received, the application will proceed under delegated powers. No further councillor contact required.
- Where a Councillor has made a comment the case officer will include it in the delegated report and notify the Councillor.
- Where the Councillor response is a request to refer to Committee. Their request will be referred to in the committee report. Should the application be amended, the officer will notify the Councillor to see whether their request stands.

All requests for referral to Planning Committee will be subject to ratification by the Chairman of the Planning Committee and Executive Head of Service (or Strategic Director). The draft agenda will be shared with the Chairman who can comment at that point on any of the Member referrals.

Note – these referral measures do NOT affect the automatic thresholds for Committee referrals i.e. number of representation letters received.

Reporting

Management information should be produced to facilitate reviews of the process. Subject to system constraints, the following information should be produced every 12 months and should include a comparison with the previous 12 months:

- Number of applications decided in the period
- Number and percentage of applications referred to the committee
- Number and percentage of referrals overturned by the committee
- Number and percentage of overturns upheld at appeal

Implementation

The new process will require changes to functionality of the current planning IT system. However, the new process will be implemented as soon as possible

Reviewing

A review of this process shall be carried out after the first 12 months of operation following its adoption, or sooner if sufficient cause is identified by the Executive Head of Service following consultation with the Chairman and Vice Chairman of the Planning Committee. Any such review should seek views from officers and Councillors over the operation of this process. It should also look at the management information and compare with the previous system.

It is intended that this should offer a flexible framework and be adaptable. If issues arise which do not fundamentally alter the concept, then these operational changes should be put in place to allow for efficient working.

Longer term reviews of delegated processes should be undertaken at least every 24 months, led by the Executive Head of Service, in consultation with the Chairman of the Planning Committee. Officers should also seek the views of members during such a review.

This page is intentionally left blank

Procedure for councillors wishing to overturn officer recommendations at the Planning Committee

If, during the debate on an application, it is apparent that Committee members do not support the officer's recommendation, the Chairman shall ask if any Committee member wishes to propose a motion contrary to the officer's recommendation, subject to the proviso that the rationale behind any such motion is based on material planning considerations. Any such motion must be seconded by another Committee member.

- Where such a motion proposes a refusal, the proposer of the motion shall be expected to state the harm the proposed development would cause in planning terms, together with the relevant planning policy(ies), where possible, as the basis for the reasons for refusal. In advance of the vote, the Chairman shall discuss with the relevant officers, the proposed reason(s) put forward to ensure that they are sufficiently precise, state the harm that would be caused, and refer to the relevant policy(ies) to justify the motion. The Committee shall take a separate vote on each proposed reason for refusal, following which the Committee shall take a vote on the motion to refuse the application based on all of the agreed reasons.
- Where such a motion proposes approval, the proposer of the motion shall be expected to state why the proposed development would be acceptable in planning terms, together with the relevant planning policy(ies), where possible. In advance of the vote, the Chairman shall discuss with the relevant officers the proposed reason(s) put forward to ensure that the planning reason for approval is sufficiently precise to justify the motion. In addition, the Committee shall discuss and agree the substance of the planning conditions necessary to grant a permission before taking a vote on the motion to approve.
- Where such a motion proposes deferral, (for example for further information/ advice) the Committee shall discuss and agree the reason(s) for deferring the application, before taking a vote on the motion to defer.

If the motion is not seconded, or if it is not carried, the Chairman will determine whether there is an alternative motion and, if there is not, the Chairman will move the officer's recommendation and ask another Committee member to second the motion. That motion will then be put to the vote.

This page is intentionally left blank

Guildford Borough Council

Development Management Review

March 2022

1. INTRODUCTION

1.1 Guildford Borough Council is at serious risk of designation in respect of speed of determination of non-major applications. Performance for the period January 2020-December 2021 is 63.6% against a minimum required level of 70%. The Council has taken up the offer of PAS support to improve performance against this target.

1.2 A review of performance has been undertaken by Tim Burton appointed by PAS. PAS is part of the Local Government Association (LGA) and provides high quality help, advice, support and training on planning and service delivery to councils, primarily in England. Its work follows a 'sector led' improvement approach, whereby local authorities help each other to continuously improve. Tim has over 30 years' experience working for local authorities, including most recently as Head of Planning for Taunton Deane and West Somerset Councils. For the last 3 years he has worked with PAS providing a range of support to many local planning authorities, including service reviews, Planning Committee reviews and Member and Officer training.

1.3 The review was based on the application of the PAS Development Management (DM) Challenge Toolkit with particular emphasis on the sections on Performance Management, Workload Management, and Team Management. The toolkit aims to provide a 'health check' for Planning Authorities and act as a simple way to develop an action plan for improvements to their Development Management service. There is a link to the Toolkit at the end of this report.

1.4 Information on application procedures, the scheme of delegation, examples of officer work plans and team structure were shared. The consultant met with planning staff on 14th March 2022 with subsequent meetings for those unable to attend held via Microsoft Teams on 21st March 2022

1.5 All those interviewed were friendly and welcoming and engaged fully with the process and are thanked for providing their honest opinions and feedback.

2. BACKGROUND

2.1 The Development Management Service has recently been reorganised as part of a wider Council transformation. This has led to the staff responsible for the administration of the planning process no longer being managed by the Development Management Team Leader. This type of managerial change will inevitably cause some disruption whilst any new arrangements bed in. This has coincided with a loss of a number of experienced members of staff. The team recognise that this has had a number of negative impacts, including the availability of mentoring and support to the less experienced members of the team.

2.2 These issues have then been exacerbated by the impacts of Covid and the need to adapt to remote working, as well as a significant upturn in the number of applications being submitted.

2.3 The Council has become increasingly reliant upon the appointment of interim staff, due to an inability to recruit permanent replacements for staff who have left. The capability of these interim staff was referred to in discussions as being variable, and their temporary nature has resulted in cases having several different case officers during their lifetime. This has not helped the Council's performance or its customer responsiveness more generally. The absence of permanent members of staff in team leader roles was identified as being of particular concern.

2.4 The combination of issues identified in this report are such that, in the short term, improvement against the 70% target for non-major applications will be heavily reliant upon the agreement of applicants to extensions of time. Adopting a more customer focussed approach based upon closer liaison with developers and their agents to agree timescales for determination therefore needs to be an immediate priority if the Council is to achieve demonstrable improvement in performance against the target this year. The overall scale of the issues faced is such that the level improvement necessary to ensure that a minimum of 70% of applications are determined within eight weeks of submission will take a longer time to achieve.

2.5 The consultant, in consultation with Dan Ledger Development Management Team Leader has identified five priority areas where improvements are identified. These are: adopting a more customer focussed approach to service delivery; improved management of caseloads through provision of enhanced data and performance information; reducing delays associated with applications being referred to Planning Committee; addressing process issues around validation and consultation; and developing a more proportionate approach to reports and sign off.

RECOMMENDATIONS

R1 Ensure all staff prioritise the provision of progress updates using extensions of time as the primary method (where necessary) Extensions of time should be requested in all cases where the application will not be able to be determined within the statutory target without exception

R2 Prepare a simple customer protocol to explain this revised more customer focused approach to service delivery supported by customer service training

R3 Remove extensions of time from scheme of delegation to allow case officers to agree these with applicants whenever required

R4 Consider employment of temporary staff and/or using overtime to address application backlog of cases in addition to prioritising recruitment to unfilled posts

R5 Review performance information currently available and seek improvements to ensure it maximises the ability to track performance and identify key milestones

R6 Make sure that performance is discussed at team meetings and consider the reporting of performance information to the Planning Committee

R7 Review call-in arrangements with a view to amending timeframes to ensure call-in requests are made earlier in the process

R8 Review process for identifying reasons why applications are being found to be invalid, and how any errors are identified before application is deemed to be valid.

R9 Work with consultees to identify ways to reduce delays including consideration of the adoption of standing advice

R10 Complete review of standard paragraphs and conditions

R11 Explore options to simplify process for habitat mitigation contribution payments

R12 Consider a simpler more risk-based approach to the sign-off of decisions

3. ADOPTION OF A MORE CUSTOMER FOCUSED APPROACH TO SERVICE DELIVERY

3.1 Guildford Borough Council has traditionally performed well against its planning performance targets. With applications being handled promptly the need to keep applicants/agents informed of progress of their application had not been seen as being a high priority. However, for the variety of reasons already set out, performance has declined quite dramatically, with decisions on non-major applications being made within eight weeks now being the exception rather than the rule.

3.2 Planning is no different to other customer facing services, whereby the customer should have a reasonable expectation in terms of being kept up to date on progress of their application, particularly in circumstances where the process becomes protracted. The use of an extension of time is the mechanism whereby a programme for the determination of the application is agreed with the applicant. It is a vital tool in the delivery of good customer service, particularly when determination times are long as they currently are. However, at Guildford Borough Council, the focus seemingly is for case officers to prioritise the technical side of their work. This has been at the expense of good customer liaison. Whilst individual case officers vary in their responsiveness to customers, the overall impression is that keeping applicants apprised of progress and agreeing extensions of time is not seen as a priority. If the Council is failing to determine applications within the statutory target and not agreeing extensions of time it is inevitable that performance will be poor.

3.3 A step change to deliver a more customer focussed approach needs to be implemented immediately. Unwillingness to agree extensions of time on the part of developers was not seen as being a significant contributor to the failure to meet the 70% target for the determination of non-major applications. Issues around staff vacancies, staff absences during Covid and the need to adapt to new ways of working as a result of Covid restrictions were all identified as having a greater detrimental impact upon performance. In these circumstances, the need to agree extensions of time where necessary must be prioritised if the performance target is to be met.

Applicants/agents are more likely to agree to extensions of time if they understand the context and how you are working to improve the service being delivered. Therefore, the publication of a simple 'customer protocol' would help support a new approach, which can be communicated through an agents/regular customers forum.

3.4 Customer service training for all planning staff would help ensure that expectations associated with this new approach and the contents of the protocol are understood.

3.5 It is understood that Guildford Borough Council has traditionally been seen to perform well against performance targets and the need to agree extensions of time was seen as something only to be used in exceptional circumstances. This was demonstrated in it being included in the scheme of delegation, whereby such requests have to be agreed and signed off by senior officers. However, the current circumstances dictate the agreement of an extension of time in the majority of cases. Therefore, it should now be part of the everyday management of the case and not seen to be a major decision. The current approach is time consuming and bureaucratic and as senior managers are having to agree to seeking extensions of time in almost all cases the process needs to be streamlined and responsibility for agreeing the extension of time should sit with the case officer.

3.6 Greater automation to keep customers informed of progress of their application would free up staff capacity. The Council may wish to explore how this might be implemented or how information on the status of applications can be easily available to customers via the Council's website.

3.7 The PAS DM Challenge toolkit's section on workload management identifies the benefits of employing additional staff on a temporary basis to meet specific objectives. Workloads are currently such that it is unrealistic to expect the permanent staff employed by the Council to be able to address the large backlog in application work. Therefore, it is recommended that the Council employs temporary resource and/or approves overtime to target this backlog (including the agreement of extensions of time for longstanding applications). This would free up the core team to focus on improving performance in response to applications as they are submitted (with an aim of reducing reliance of extensions of time).

3.8 The Council also needs to address the number of vacant posts, most notably in senior professional roles. Without a full complement of permanent staff, addressing performance issues will be far more difficult. It is also important that experienced officers are in place to provide adequate support and mentoring to the less experienced members of the team.

4. IMPROVED MANAGEMENT OF CASELOADS THROUGH PROVISION OF ENHANCED DATA AND PERFORMANCE INFORMATION

4.1 In order to improve performance in this area, performance information needs to be readily at hand and officers alerted when extensions of time need to be agreed. As is recommended in the DM Challenge toolkit, the Council is advised to review management information to reduce reliance on officers devising their own mechanisms (Make use of the Planning software to provide

performance information/Different staff need different information). A proper system also needs to be in place to record extension of times. Data needs to be in real time, including standard workload reports for each officer that can be run at any time. Reports need to be able to be easily read and explain performance through the use of graphs, comparisons etc

4.2 Performance should be discussed at regular team meetings and performance discussions should be scheduled into relevant management meetings and staff 1 to 1s. You should include performance as a regular item for the Planning Committee.

4.3 The team identified the lack of readily available real time performance information as being a major issue for both case officers and those who manage them. Greater use of enterprise provides an opportunity to incorporate better real time reporting and alerts. This should help to reduce the reliance upon case officers to inform applicants and other interested parties of their application's progress towards determination.

5. MINIMISING DELAYS ASSOCIATED WITH APPLICATIONS BEING REFERRED TO PLANNING COMMITTEE

5.1 Councillors should have the opportunity to scrutinise the most important and contentious proposals. Having a system whereby Councillors can request that applications are referred to the Planning Committee based upon sound planning reasons is a well-established and sound concept. However, good practice dictates that this ability to call in applications runs alongside other consultation in order to provide consistency and clarity to decision-making processes. The arrangements at Guildford Borough Council whereby Councillors have the opportunity to call an application at the end of the process ie. once the planning officer has formulated their recommendation (the 7 day rule) runs contrary to these principles.

5.2 Furthermore, this additional step late in the process causes regular delays and is undoubtedly a significant contributor to the Council's recent poor performance. It is unclear what the benefits of this unusual approach are. Most other Councils successfully operate call-in arrangements whereby call-in takes place within 21 or 28 days of initial consultation. Whilst it is not known whether the application is likely to be permitted or refused at this earlier stage, Councillors can indicate that they only wish to call in the application should the officer's recommendation be to permit or alternatively refuse. This alternative approach would improve clarity, avoid unnecessary delay and would in no way reduce the Councillor's ability to call an application in. The Council is strongly recommended to consider adopting this alternative approach, which will make a significant contribution to delivering the performance improvements that are required.

5.3 Referring applications to Planning Committee adds both resource and time to the determination process. Planning Committee time is limited each month and its focus should be upon the scrutiny of the most controversial and/or strategic proposals. The number of applications referred to each meeting should be minimised accordingly. Therefore, it may be beneficial to review the criteria for referral and exclude more minor applications such as householder

development altogether. This would expedite these cases whilst maximising Committee time to undertake its important scrutiny role of the most significant developments being proposed.

6. ADDRESSING ISSUES ASSOCIATED WITH VALIDATION AND CONSULTATION

6.1 Councils manage the registration and validation of planning consent applications in different ways based on their team structures and the software used. Sometimes it is an administrative function, or there is a designated officer (s), or it will be undertaken by the case officer, or a combination of these options. The DM Challenge toolkit identifies an excellent receipt and validation service as one which undertakes the task quickly and accurately so there are not further delays in the consents process.

6.2 Invalid applications should be monitored through regular reports so that managers can discuss reasons for delays with both case officers and the validation team. Those interviewed identified both errors in validation at the point of which the application was being forwarded to the case officer, as well as a delay in officer's reviewing the information and identifying such issues. Both of these scenarios will add a delay to the process and if an application is subsequently found not to have the required information, this will impact upon the ability to determine it within the statutory target time. You may wish to explore whether the separation of the management of the planning and validation teams is a contributory factor and if so, how that impact might be mitigated.

6.3 Officers identified delays in receiving responses from consultees as a major constraint to improved performance. This was validated through the subsequent review of applications. It is commonly taking several months to receive consultation responses. Therefore, it is very important that delays to consultation responses are addressed. Whilst resource issues amongst other departments and organisations are recognised, it was suggested that the importance of timely decision-making in planning does not always appear to be reflected in the priority given to responding to planning consultations by other services. Within the sample of applications reviewed several applications were delayed by several months awaiting seemingly straightforward consultation responses. Performance in this area is largely beyond the planning team's control. Therefore, corporate recognition of the importance of timely decision-making in planning needs to be translated into prioritisation of such work across the Council and other partners.

6.4 The planning team claimed that they have been taking a pragmatic view on whether applications can reasonably be determined without waiting for outstanding consultation responses. However, in order to speed up the process and reduce the burden of work for consultees it is recommended that this is further reviewed and a more risk-based approach as to whether applications can be determined in such circumstances is considered.

6.5 The production of standing advice can act as a useful way of ensuring technical issues are addressed, whilst reducing the workload for consultees. Whilst there will always be cases where bespoke advice is required, the introduction of standing advice should have a major positive impact upon the speed of determination in many instances. Environmental Health and Highways

consultations might be good targets for the production of standing advice as both are consultees with a high number of applications to look at.

7. ADOPTING A MORE PROPORTIONATE APPROACH TO REPORTS AND SIGN-OFF

7.1 Officer reports generally appear to be well constructed and comprehensive. The Council has identified the benefits of using standard wording and conditions to speed up the preparation of reports. Whilst some work has been undertaken in this area, if completed, it will ensure that reports and decisions remain appropriate, whilst at the same time improving consistency and reducing time for those compiling and signing off reports. Increased standardisation of reports should also enable those reviewing them to adopt a lighter more risk-based approach to the task than currently appears to be the case.

7.2 Delays in the completion of s106 agreements has been identified as a major cause of delay, particularly when related to mitigation of impact upon Special Protection Areas. The Council may wish to explore the option of applying a simple Unilateral Undertaking system through your website. One example of this is the habitat mitigation payment approach adopted by East Devon District Council.

<https://eastdevon.gov.uk/planning/planning-services/planning-development-management/unilateral-undertakings-section-106-agreements-habitat-mitigation-and-affordable-housing-contributions/habitat-mitigation/>

7.3 Double-handling by the person responsible for signing off applications was identified as an area where the process could be simplified to save time. A revised approach should be considered taking account of any additional risk that this might cause.

8. CONCLUSION

8.1 During the most recent assessment period the service is performing badly when judged against the government's performance target in relation to non-major applications. Whilst this can, in part, be attributed to an increase in the number of applications being submitted, resource issues and the need to respond to Covid19 related challenges, these are issues are equally being faced by a significant proportion of Councils across the country. A considerable level of improvement will be required for Guildford Borough Council to get to a position where it is no longer at risk of designation.

8.2 A step change in terms of the priority the Council gives to agreeing timescales for determining applications with applicants and agents, based upon a far more rigorous approach to seeking extensions of time, will be essential if the Council is to see any demonstrable improvement to performance in the period to the end of 2022. The implementation of the other recommendations in this report will assist the Council in reducing overall determination times resulting in the need to agree extensions of time becoming a less frequent requirement in the future.

PAS Development Management Challenge Toolkit

<https://www.local.gov.uk/pas/development-mgmt/development-management-challenge-toolkit>

This page is intentionally left blank

Planning Committee Report

Ward(s) affected: All

Report of Joint Strategic Director: Transformation and Governance

Joint Strategic Director: Place

Author: John Armstrong

Tel: 01483 444102

Email: john.armstrong@guildford.gov.uk

Lead Councillor responsible: Tom Hunt

Tel: 07495 040978

Email: tom.hunt@guildford.gov.uk

Date: 7 February 2023

Review of Probity in Planning Local Code of Practice Handbook for Councillors and Officers

Executive Summary

The Council last reviewed the Probity in Planning - Local Code of Practice Handbook in April 2019. The Handbook forms part of the Council's Constitution and provides guidance for councillors and officers on their role and conduct in the planning process. The guidance includes how councillors and officers should manage contact with applicants, developers and objectors or supporters. The purpose of the guidance provided in the document is to ensure that decisions made in the planning process are not biased and are taken openly and transparently, and based on material planning considerations only.

As part of its ongoing work reviewing various aspects of the corporate governance of the Council, the Corporate Governance Task Group appointed by the Corporate Governance & Standards Committee has conducted a thorough review of the Handbook.

The draft revised Handbook, as recommended by the Task Group, is attached with tracked changes as **Appendix 1** to this report, with a clean copy attached as **Appendix 2**.

In summary, the key changes proposed are in respect of the following:

- Section 16: Pre-Application Discussions including Planning Performance Agreements
- Section 19: Councillor 'call-up' to Planning Committee
- Section 21: Planning Committee (particularly the procedure for dealing with Member overturns)

This report was also considered by the Corporate Governance & Standards Committee at its meeting held on 19 January 2023. The various comments and recommendations from the Corporate Governance and Standards Committee are set out in the draft minute from that meeting, which is attached as **Appendix 3**. Comments and recommendations from both Committees will be reported to the extraordinary meeting of the Council, scheduled for 22 February 2023.

Recommendation to the Committee:

That the revised 'Probity in Planning Local Code of Practice Handbook for Councillors and Officers', attached as Appendix 2 to this report, be commended for adoption by full Council at its extraordinary meeting on 22 February 2023.

Reason for Recommendation:

To provide revised, up to date and fit for purpose Probity in Planning guidance to councillors and officers, together with other relevant information on the planning process at the Council in a helpful handbook.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

1.1 The purpose of this report is to set out why the Probity in Planning – Local Code of Practice Handbook for Councillors has been reviewed, the process of the review and to highlight the changes that have been made. This report asks the Committee to commend the Handbook to full Council for adoption.

2. Strategic Priorities

2.1 The Council, as the local planning authority, has a key role in local development, redevelopment and implementation of the Local Plan in line with legislation and the National Planning Policy Framework. The Council must ensure that councillors and officers are properly supported with fit for purpose guidance that can provide confidence in the decision-making process and reassurance to local residents and businesses. This is consistent with the following values in our Strategic Framework (2021-2025):

- We will listen to the views of residents and be open and accountable in our decision-making
- We will ensure that our councillors and staff uphold the highest standards of conduct.

3. Background

3.1 Probity in Planning guidance is provided by all local authorities, and it normally sits within councils' constitutions. There is no statutory

- requirement to provide such codes of practice, but it is good practice to have accessible, up to date guidance available to all decision makers. The guidance should be read alongside the Councillors' Code of Conduct, the Code of Conduct for Staff and the Protocol on Councillor/Officer Relations.
- 3.2 The Council's Probity in Planning – Local Code of Practice Handbook was last reviewed and updated in 2019.
 - 3.3 Arising from a number of concerns raised by councillors following the 2019 elections in relation to ethical standards, communications, and transparency, this Committee established a cross-party task group, including a co-opted parish representative and an independent member of the Committee, with a wide remit to consider, review and make recommendations in respect of these, and other corporate governance related matters.
 - 3.4 The Task Group commenced its review of the Handbook in June 2022, and this followed consideration of a proposed protocol for Informal Presentations to Councillors by third parties relating to Development. The protocol was considered and endorsed by the Committee at its meeting on 28 July 2022. The Committee agreed that the protocol should be appended to the revised Probity in Planning Handbook. This is attached as Annex 2 to the revised Handbook.
 - 3.5 During its consideration of the review of the Handbook, the Task Group invited to its meetings the Chairman and Vice-Chairman of the Planning Committee, together with the then Head of Place and, latterly, the new interim Executive Head of Planning Development for the purpose of providing advice and guidance on key elements of the Handbook.
 - 3.6 It was noted during the review that certain matters referred to in the Handbook were also part of a separate review being conducted by the Planning Committee Review Working Group which had been established by the Executive to consider the recommendations of the LGA Peer Review. These matters were the call-up process for referral of applications to Planning Committee by councillors, and the member overturn process. Whilst there was general agreement by the Task Group on many aspects of the review of the Handbook, it is acknowledged that there were differences of opinion on particular matters such as the call-up process.
 - 3.7 The revised Handbook will be a useful tool for all councillors, particularly those newly elected following the Borough Council elections in May, especially those who are appointed to the Planning Committee. A copy of the draft revised 'Handbook' is attached with tracked changes as **Appendix 1** to this report, with a clean copy attached as **Appendix 2**.

4. Consultations

- 4.1 The Interim Joint Executive Head of Planning Development, the Senior Planning Solicitor and the Monitoring Officer have reviewed this draft version.
- 4.2 As stated above, the 'Handbook' will be an essential tool for all councillors, but as it is directly relevant to the planning process and the operation of the Planning Committee, it was considered appropriate that this Committee is afforded the opportunity of being consulted on it. Any comments arising from the Committee's consideration of the report at its special meeting on 7 February, will be reported to the full Council for adoption at its extraordinary meeting, on 22 February.

Corporate Governance & Standards Committee – 19 January 2023

- 4.3 This matter was also considered by the Corporate Governance & Standards Committee at its meeting on 19 January. A copy of the draft minute in respect of this item is attached as **Appendix 3** to this report.

Issues that have been addressed as a consequence of the consideration by the Corporate Governance & Standards Committee

- (a) The Committee requested a tracked changed version of the document so councillors can see the changes that were being proposed to the current Handbook, together with a summary of the key changes. **Appendix 1** includes the tracked changes, and the Executive summary lists the key changes.
- (b) It was suggested that that examples of non-pecuniary interests be included in section 10 of the Handbook. These are shown highlighted in yellow in both **Appendices 1** and **2**.
- (c) Whilst the Handbook sets out detailed rules for individual councillors having conversations with potential applicants or planning officers, and the need to keep notes of meetings etc., there was concern that there did not appear to be anything in the Handbook that applied similar rules in circumstances where the Council might be involved in the development of a planning application, not as a planning authority, but as a corporate entity. It was suggested that either the Handbook could be expanded to include the role of councillors on planning when they were acting in a corporate capacity, for example as a portfolio holder, and the role of the Council as a corporate body in relation to planning matters, or that it be included in a separate protocol or policy document.

Regulation 64(2) of the Town and County Planning (Environmental Impact Assessment) Regulations 2017 (SI 2016 No. 571) ("the 2017 Regulations") provides that:

“Where an authority....is bringing forward a proposal for development and that authority....will also be responsible for determining its own proposal, the relevant authority.... must make appropriate administrative arrangements to ensure that there is a functional separation, when performing any duty under these Regulations, between the persons bringing forward a proposal for development and the persons responsible for determining that proposal.

The purpose of these administrative arrangements is to ensure that:

- (i) the functions of the authority will be undertaken by identified persons provided with the necessary resources and acting impartially and objectively;
- (ii) any person acting or assisting in the handling of the planning decision is prevented from being involved in promoting or assisting in the promotion of the application and/or the development; and
- (iii) any person involved in promoting or assisting in the promotion of the development is prohibited from giving any instructions to, or putting any pressure upon, any person acting or assisting in the handling of the planning decision, or from attempting to do so.

This is vital to ensure that there is a clear process for handling planning applications which avoids any potential conflicts of interest or any perception of conflict and/or that the decision-maker has been influenced by irrelevant considerations.

At councillor level, it is recognised good practice to ensure that portfolio holders do not sit as members of the Planning Committee given the potential conflict of interest that is likely to exist in respect of the applications in respect of the Council’s own developments, or developments which directly affect the Council’s land or property. However, it is noted that currently there are three portfolio holders who are also substitute members of the Planning Committee.

Additional text has therefore been added to section 14 of the draft revised Handbook, which is shown highlighted in yellow in both **Appendices 1** and **2**.

- (d) It was suggested that the duty on councillors to act impartially at all times should also apply to officers, and that the requirement for officers to disclose interests where it is considered that those interests might affect their objectivity in respect of a matter, should extend specifically to a requirement that they take no part in any decision on that matter. The Committee was advised that professional codes of conduct applied to officers advising the Planning Committee in addition to the Council’s own [Code of Conduct for Staff](#) (see para 3.1 et seq.) which requires officers to provide impartial advice to councillors and the public.

Additional text has been added to sections 8, 9, and 10 of the Handbook to reflect this. Again, this is shown highlighted in yellow in both **Appendices 1** and **2**.

5. Equality and Diversity Implications

- 5.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.
- 5.2 There are no equality and diversity implications arising from this report

6. Financial Implications

- 6.1 It is of vital importance that councillors and officers operate under the guidance issued in the revised Planning in Probity document to ensure the timeliness and quality of planning decision making. Failure to do so may lead to unnecessary and avoidable appeals or legal challenges, thus incurring potentially significant costs to the Council.
- 6.2 Changes to the member referral process, as recommended in this report and the report on the review of the Planning Committee elsewhere on this agenda, have the ability to improve financial performance by making the application process more efficient. However, failure to make these changes may have very significant adverse financial implications such as cost of appeals and the Council being designated for non-performance.
- 6.3 If the proposal to front load the member referral process, by removing the 7-day notice and replacing it with the proposed 21 day call up to Committee, is not adopted it will have a significantly adverse impact on the timely determination of applications, thus hindering the Council's ability to improve the speed of determination of non-major applications. This would reject Recommendation 7 of the PAS Committee Review 2020 (referred to in the other report on this agenda) and Recommendation 7 of the PAS Development Management Review 2022 (also referred to in the other report) and could lead to designation by the Secretary of State, which would have a significant impact both financially and reputationally on the Council.

7. Legal Implications

- 7.1 The legal implications are set out in this report and in the draft revised Handbook. Reviews of this nature are worthwhile to ensure procedures remain updated, legally compliant and include best practice across the board from other authorities and agencies, e.g. the LGA and PAS.
- 7.2 As mentioned above, failure to ensure the timeliness and robust quality of planning decision making, may lead to unnecessary and avoidable

appeals or legal challenges. In addition, these can in turn lead to added risk, reputational damage and Secretary of State intervention.

8. Human Resource Implications

8.1 There are no human resource implications arising from this report

9. Climate Change/Sustainability Implications

9.1 There are no climate change/sustainability implications arising from this report.

10. Summary of Options

10.1 The Committee may recommend that the existing Probity in Planning – Local Code of Practice Handbook be retained if councillors consider it remains fit for purpose.

10.2 The Committee may submit the matter back to officers, or the Task Group, for further revision if it considers it is still not fit for purpose after the recent review.

10.3 The Committee may commend the Probity in Planning Councillors' Handbook' to the Planning Committee, and full Council for adoption, with or without amendment.

11. Background Papers

[Current Probity in Planning – Local Code of Practice Handbook for Councillors](#)

12. Appendices

Appendix 1: Proposed Probity in Planning – Local Code of Practice Handbook for Councillors and Officers (with tracked changes)

Appendix 2: Proposed Probity in Planning – Local Code of Practice Handbook for Councillors and Officers (without tracked changes)

Appendix 3: Draft Minute of the Corporate Governance and Standards Committee (19 January 2023)

This page is intentionally left blank

PROBITY IN PLANNING LOCAL CODE OF PRACTICE – COUNCILLORS’ HANDBOOK FOR COUNCILLORS AND OFFICERS

CONTENTS

	Page
1. Foreword.....	5-28
2. Introduction.....	5-28
3. Planning policies and the Local Plan.....	5-29
4. Applicability of the code.....	5-29
5. Breaches of the code.....	5-29
6. Training.....	5-29
7. Role of the Councillor.....	5-29
8. Role of the Planning Officer.....	5-30
9. Role of the Monitoring Officer.....	5-30
10. Disclosure and registration of interests.....	5-30
11. Predisposition, predetermination or bias.....	5-31
12. Limiting Fettering discretion.....	5-31
13. Members of more than one tier of local government.....	5-31
14. Development proposals submitted by the council, councillors and officers.....	5-32
15. Lobbying and Negotiations.....	5-32
16. Pre-application discussions including Planning Performance Agreements	5-32
17. Publicity.....	5-33
18. Planning applications.....	5-34
19. Councillor Call-up to Committee Seven day notification process	5-35
20. Site visits by Planning Committee Members Councillor Call-in	5-36
21. Planning Committee Site visits	5-36
22. Councillor behaviour in committee meetings Planning Committee	5-38
23. Webcasting of meetings Councillor behaviour in committee meetings	5-39
24. Reports containing confidential or exempt information Webcasting of meetings	5-40
25. Public speaking at Planning Committee Confidential/exempt reports	5-40
26. Councillor representations on appeals against planning decisions Officer reports	5-40
27. Public speaking.....	5-41
28. Decisions contrary to officer recommendations.....	5-41
29. Councillor representations on appeals against planning decisions.....	5-41
30. Planning Enforcement.....	5-42
31. Further reading.....	5-42
Annpppendix 1: Councillor interests.....	5-43
Annpppendix 2: Protocol for Informal Presentations to Councillors relating to Development Planning application publicity.....	5-44
Annpppendix 3: Process for Councillor ‘call-up’ to Planning Committee Speaking at Committee.....	5-46

Agenda item number: 5

Appendix 1

<u>Appendix 4: Procedure for councillors overturning officer recommendations at Committee Seven day notification process councillor template</u>	5-54
<u>Appendix 5: Public Speaking at Planning Committee Enforcement Call-in Procedure</u>	5-56

1. Foreword

- 1.1 This Probity in Planning guide is for councillors and planning officers and reflects the requirements of the Localism Act 2011, the recommendations of the Third Report on Standards in Public Life Committee ('Nolan Report'), Local Government Association guidance and the Council's own experience.
- 1.2 The guidance clarifies how [all](#) councillors should understand their roles and responsibilities when involved in planning discussions, plan making and determining planning applications.
- 1.3 It is important that councillors and officers familiarise themselves with this guidance and with the other Codes and Protocols which sit alongside it in Part 5 of the Council's Constitution. Councillors must ensure that their conduct accords with the requirements of the Councillors' Code of Conduct and Protocol on Councillor/Officer Relations [included in Part 5 of the Constitution](#). Equally, officers must ensure that their conduct accords with the Code of Conduct for Staff and the Protocol on Councillor/Officer Relations
- 1.4 Councillors should note that this guidance does not constitute legal advice.
- 1.5 Any councillor or officer with any doubts about the matters presented in this guidance should contact the Monitoring Officer for clarification.

2. Introduction

- 2.1 The planning system involves taking decisions about the use and development of land. It is not an exact science and relies on informed judgement within a firm policy context. It is important that all concerned (applicants, objectors, practitioners, officers, councillors and the general public) have complete confidence in the integrity and transparency of the system.
- 2.2 Councillors are required to adhere to the following general principles prescribed by the Localism Act 2011, as attached to the Councillors' Code of Conduct:
 - **Selflessness.** Holders of public office should act solely in terms of the public interest.
 - **Integrity.** Holders of public office must avoid placing themselves under any obligation to people or organisations that try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves their family or their friends. They must declare and resolve any interests and relationships.
 - **Objectivity.** Holders of public office must act and take decisions impartially, fairly and on merit using the best evidence and without discrimination or bias.
 - **Accountability.** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - **Openness.** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
 - **Honesty.** Holders of public office should be truthful.
 - **Leadership.** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

[Officers are also obliged to adhere to the above-mentioned principles.](#)

- 2.3 The Councillors' Code of Conduct makes clear that, in taking public office, councillors must accept constraints on their behaviour. It is not enough to avoid actual impropriety. You

should at all times avoid any occasion for suspicion and any appearance of improper conduct.

- 2.4 This local code of practice has been prepared to reflect government guidance within the local context of Guildford. It is intended as a guide to councillors and officers to ensure that decisions are taken impartially, without bias and are well founded.

3. Planning policies and the Local Plan

- 3.1 This local code of practice also applies to decisions on development plans, supplementary planning guidance or other policy documents.
- 3.2 Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended). [Decisions must be taken in accordance with the provisions of the Development Plan](#)~~If a Local Development Plan has been adopted, and~~ councillors must vote in accordance with it unless there are mitigating material considerations.

4. Applicability of the Code

- 4.1 This code of practice is intended to be a guide for councillors [and officers](#) as to the conduct expected of them on matters relating to planning in the Borough.
- 4.2 ~~Members of the Planning Committee~~[Councillors](#) and others to whom this code applies must make their own judgments as to its application to specific planning matters, including individual planning applications. In most cases, its applicability will be clear. If any councillor is in doubt, he or she may seek advice from the Monitoring Officer. However, the final decision must be for the councillor to determine.

5. Breaches of the Code

- 5.1 A breach of the code is a serious matter and, although usually not amounting to a breach of the criminal law, may incur an adverse report from the Local Government Ombudsman and/or action under the Councillors' Code of Conduct.

6. Training

- 6.1 The Council requires that all councillors receive an introduction to planning training session when they are elected. It is important for all councillors, not only those sitting on the Planning Committee, to receive this training as some complex applications can be referred to full Council [for determination](#). [No member or substitute member of the Planning Committee shall be permitted to sit on the Committee as a decision-maker unless they have completed the introduction to planning training session.](#)
- 6.2 For those members sitting on the Planning Committee ~~'bite-sized'~~[further](#) training sessions are delivered regularly. It is important that members and substitute members attend all training sessions so that the any risk for the Council is kept low and the local community can be reassured that those determining Planning matters have the knowledge to be able to do so.
- 6.3 Members of the Planning Committee or substitute members who are absent when training is delivered must ensure they view the training recorded on the webcast to familiarise themselves with the training provided.
- 6.4 All councillors will receive training on the Councillors' Code of Conduct to remind them of the responsibilities of public office and remind them to review their register of interests regularly.

7. Role of the Councillor

- 7.1 Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole.
- 7.2 The Court of Appeal has held that Planning Committees are not acting in a judicial or quasi-judicial role when deciding planning applications but “in a situation of democratic accountability”. Planning Committee Members **must** therefore:
1. act fairly, openly and apolitically;
 2. approach each planning application with an open mind, avoiding pre-conceived opinions;
 3. carefully weigh up all relevant issues;
 4. determine each application on its individual planning merits;
 5. avoid undue contact with interested parties; ~~and~~
 6. ensure that the reasons for their decisions are clearly stated; ~~and~~
 7. consider the interests and well-being of the whole borough and not only their own ward.
- 7.3 The above role applies also to councillors who are nominated as substitutes to the Planning Committee. Equally, the conduct of members of any working party or committee considering planning policy must be similar to that outlined above relating to the Planning Committee.

8. Role of the Planning Officer

- 8.1 Officers advise councillors and the Council and carry out the Council’s work. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other’s positions.
- 8.2 Planning officers advise councillors **impartially** on planning policy and planning applications. They will:
1. provide professional, objective and comprehensive advice;
 2. provide a clear and accurate analysis of the issues;
 3. advise on the development plan and other material considerations;
 4. give a clear recommendation; and
 5. implement the Committee’s/Council’s decisions (including those made by officers under powers delegated to them).

9. Role of the Monitoring Officer (or representative)

- 9.1 The Monitoring Officer will give clear **impartial** and objective advice to councillors:
- on legal issues arising out of the conduct of the Committee’s functions; and
 - regarding the implementation of the Committee’s decisions and proposed courses of action
- 9.2 The Monitoring officer will implement the Committee’s/Council’s decisions so far as they require the completion of any legal agreements, institution/defence of any proceedings, issuing of notices etc.

- 9.3 The Democratic Services and Elections Manager (or representative) will also give clear, impartial, and objective advice to councillors as necessary on administrative issues arising out of the conduct of the Committee's functions.

10. Disclosure and Registration of Interests (see also Appendix 1)

Disclosable pecuniary interest (DPIs).

- 10.1 A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property). Councillors (or their spouse/ partner), with a DPI in relation to any item on the Planning Committee agenda, may not speak on that item and should absent themselves from the debate and the vote. There is clear guidance in the Councillors' Code of Conduct on what constitutes a 'disclosable pecuniary interest'. The Council has a publicly available register of councillors' interests, a copy of which is also available for inspection on the Council's website: [Your Councillors - Guildford Borough Council](#).

Non-pecuniary interests

- 10.2 If a councillor has a non-pecuniary interest they must declare it at the meeting, but they may speak on the item and need not absent themselves for the debate or the vote. Councillors should check with the Monitoring Officer if they are in any doubt. A non-pecuniary interest is an interest that may, in the mind of a reasonable observer, affect a councillor's objectivity or judgement of the public interest. Examples of non-pecuniary interests include, but are not limited to:

(a) membership of organisations to which the councillor has been appointed or nominated by the Council and in which the councillor holds a position of general control or management, or

(b) membership of, or holding a position of general control or management in, any body

- that exercises functions of a public nature;
- that is directed to charitable purposes; or
- one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

- 10.3 It is very important that councillors disclose any interests they may have in particular schemes at the earliest opportunity. This requirement relates to individual planning applications and planning policies and proposals, which are being developed in development plans, supplementary planning guidance or development briefs.
- 10.4 Interests must be disclosed by councillors before the Committee discusses the item concerned. Such disclosures are usually taken at the start of the meeting and are recorded in the minutes.

Officers' interests

- 10.5 It is also important for officers to disclose interests in writing to their Joint Executive Head of Service /Joint Strategic Director/service leader/director, if they consider that those interests might affect their objectivity. In such circumstances, officers shall take no part in any decision-making process which relates to or affects those interests.

~~10.6~~ The Council has a publicly available register of councillors' interests, a copy of which is also available for inspection on the Council's website: <http://www.guildford.gov.uk/councillorsearch>

- ~~10.7~~10.6 The Council also holds a register of officers' interests, which is not available to the public.

Gifts and Hospitality

10.7 The Councillors' Code of Conduct also sets out rules on acceptance of gifts and hospitality by councillors by councillors. There is also guidance for officers and a hospitality register is held within directorates.

11. Predisposition, Predetermination or bias

11.1 It is entirely permissible for Committee Members, who are democratically accountable decision makers, to be predisposed towards a particular outcome. Nonetheless, they must address the planning issues before them fairly and on their individual merits. That means they can have a view on the application but must not make up their minds on how to vote before formally considering the application, listening to the officer presentation, any representations and the full debate. Committee Members must have an open mind to the merits of a proposal before it is formally considered at the Committee meeting and they must be prepared to be persuaded by a different view in the light of any detailed arguments or representations concerning the particular matter under consideration.

12. Limiting Fettering discretion

12.1 Councillors being involved with a matter that they will later be called upon to take a decision on as a member of the Council can limitfetter their discretion.

12.2 Pressure is sometimes put on councillors to comment on a matter before the meeting, either in the press or on social media. The Councillors should not be put themselves in a position where it appears they have already taken a view. The Councillors should always say that they will consider all the facts and take a decision based on the merits of the case presented.

13. Members of more than one tier of local government

13.1 Provided a member of the Planning Committee has not acted at parish or county level in so far as they will have predetermined the matter then they may remain in the Committee meeting to speak and vote.

13.2 Councillors serving on other councils may reserve their right to change their position when more information is provided at the Planning Committee meeting. More information may become available in the Planning Officer's report, which will include all representations.

14. Development proposals submitted by the Council, councillors and officers

14.1 Planning applications submitted by individual councillors or officers will be determined by the Planning Committee and not under delegated powers in order to maintain propriety and transparency.

14.2 Any councillor submitting a planning application is likely to ~~have~~ a disclosable pecuniary interest and must follow the guidance set out in the Councillors' Code of Conduct.

14.3 Aside from minor Council applications, which can be approved under delegated authority, proposals for the Council's own development will be treated with the same transparency and impartiality as those of private developers.

14.4 The Council has a corporate duty to ensure that:

- (i) Its development management functions are undertaken by identified persons provided with the necessary resources and acting impartially and objectively;

Appendix 1

(ii) any person acting or assisting in the handling of a planning application is prevented from being involved in promoting or assisting in the promotion of the application and/or the development; and

(iii) any person involved in promoting or assisting in the promotion of the development is prohibited from giving any instructions to, or putting any pressure upon, any person acting or assisting in the handling of the planning application, or from attempting to do so.

14.5 It is recognised good practice to ensure that portfolio holders do not sit as members of the Planning Committee given the potential conflict of interest that is likely to exist in respect of applications in respect of the Council's own developments or developments which directly affect the Council's land or property.

15. Lobbying and Negotiations

15.1 Lobbying is usual during the planning process and those affected by an application will seek to influence individual councillors and the Planning Committee. Councillors should expect to be contacted in this regard and should listen to all views.

15.2 Councillors may offer advice, for example suggesting to those lobbying that they write to the planning officer or register to speak at the committee, but should take care when being lobbied that any comments they make do not give the impression that they have predetermined the matter. Instead they should make it clear that they will not make a final decision until they have heard all of the arguments at the Committee meeting.

15.3 Political group decisions must not be taken on planning applications and related matters and councillors should not lobby one another or agree with one another on how to vote.

15.4 Councillors should adhere to the Protocol on Councillor/Officer Relations at all times and should not attempt to influence or to apply pressure to officers in any way. (If a councillor is concerned about the recommendation or the advice a case officer is giving, the Joint Executive Head of Planning Development or the Joint Strategic Director (Place) Director of Planning and Regeneration must be informed immediately.)

~~15.5 Any councillor wishing to make representations in a planning inquiry should seek the advice of the Monitoring Officer and the Planning Development Manager.~~

~~15.6 Councillors and, in particular, those sitting as the Planning Committee need to take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in a transparent, open, reasonable and fair manner.~~

~~15.5 Councillors on the Planning Committee may receive correspondence from the public asking them to reject or grant an application. If the correspondence is received before the officer has completed their report, the councillor should direct the author to submit their representations via the website: Search for information about a planning application - Guildford Borough Council.~~

~~15.6 If the correspondence is received after the officer has completed their report and before the Planning Committee meeting sits, the councillor should forward the correspondence to the Planning Committee's Democratic Services Officer, who will forward to the whole Planning Committee and the relevant planning officer(s).~~

16. Pre-Application Discussions including Planning Performance Agreements (PPAs)

~~16.1 Pre-application discussions with potential applicants may take place, but unless the discussion simply relates to policies and procedures, such meetings should always involve officers, who can give professional planning advice. Such discussions can be extremely~~

~~useful to all concerned and can save a great deal of wasted effort (on both sides) as well as contributing to a higher quality development.~~

Apply for our pre-application advice – Guildford Borough Council

~~16.2 Councillors will only be involved (primarily for fact-finding) in pre-application discussions on major schemes when a specific forum has been arranged by officers for that purpose.~~

~~16.3 In complex or contentious cases, at least one planning officer will be present.~~

~~16.4 A meeting note will be taken by planning officers and placed on the relevant file. Some pre-application discussions are undertaken on a confidential basis and these will be placed in a confidential envelope on the appropriate file. These will normally be made public once an application has been received.~~

Design Review Panel

~~16.5 On larger schemes it is possible the proposal will be the subject of a Design Review Panel. The local ward councillors would be invited to attend that review.~~

~~16.6 It will be made clear that the planning officers are giving provisional views (based on the development plan and up-to-date government guidance); that no decisions are being made and that decision-making rests with councillors at Planning Committee or by the relevant officer under delegated powers.~~

~~16.7 Similar issues apply to the development of planning policy. There may be occasions where owners, developers or other interested parties will wish to discuss with councillors aspects of emerging policy in the development plan and other policy documents. This may be as promoters of a particular development or objectors to specific proposals. In such circumstances, councillors should always:~~

- ~~○ avoid as far as possible meeting a promoter of a development alone;~~
- ~~○ avoid making it known in advance of the Committee or similar meeting whether they support or oppose the proposal;~~
- ~~○ restrict advice to procedures only;~~
- ~~○ direct objectors or promoters of schemes to the planning officers so that they can be included in the appropriate report;~~
- ~~○ make a note of any relevant meeting and copy to the planning officer(s).~~

~~16.8 Councillors should make a note of any formal meetings with an applicant or any other interested party, whom if possible a councillor should avoid meeting alone, which will be publicly available on the planning file and inform those present that this will be done.~~

~~16.9 Councillors should direct objectors and other interested parties to planning officers who will include reference to their opinions (where relevant) in their report to the Planning Committee.~~

~~16.10 Councillors should restrict pre-application advice to procedures and policies only.~~

~~16.11 If meeting with an applicant, objector or potential applicant, councillors should restrict their comments to policies and procedures that may be involved in coming to a decision. Councillors may wish to involve a colleague or planning officer in such meetings. It is essential that councillors do not become involved in the negotiation process, but direct applicants to the case officer to carry out the relevant negotiations.~~

16.1 Pre-application discussions with potential applicants are an essential part of the planning process and help identify problems and address issues before the submission of an application. They can also be used to identify the right means of engagement before and during the application process. Such discussions are led by officers and the Council has a

Appendix 1

paid pre-application advice service and PPA service in place to ensure all discussions take place correctly. Councillors should be cautious of being approached in an attempt to circumvent this normal process. If any enquiries are received about obtaining pre-application advice, the Councillor should direct the enquirer to the Council's website: Apply for our pre-application advice - Guildford Borough Council. Pre-application advice is confidential until the submission of an application and the applicant's consent must be gained before disclosing the advice. If a Councillor takes part in the pre-application process, they must be mindful of this confidentiality.

16.2 If a potential applicant requests a meeting with a Councillor, either before or after a pre-application enquiry has been made, the Councillor should contact officers before agreeing. The officer will advise whether a meeting at this stage is appropriate. If a meeting does take place as a matter of course an officer should be present. These should generally be in exceptional circumstances so as not to undermine normal pre-application discussions and to ensure good use of officer and Councillor time.

16.3 For large scale development proposals, it is appropriate to include relevant Councillors; however, this will normally be a briefing from officers rather than direct engagement with the developer. Initially it will be for the officer to determine whether this briefing should take place.

16.4 As part of the pre-application advice process on larger developments a Design Review Panel process is also offered. This comprises design experts who are independent from the Council, more information on this process is available online. Relevant ward councillors would be invited to attend that review.

16.5 There should be a record of any meetings which take place. It should be agreed ahead of the meeting who will be responsible for taking notes/records (applicant/officer/ councillor etc). Before being finalised, those notes should be circulated to attendees to ensure transparency. A copy will then be placed on the pre-app file for record.

16.6 Occasionally, a third party may make a request to make an informal presentation to councillors on development proposals that do not form part of any formal planning application, and which do not fall within the formal Application or Pre-Application process. The Council has adopted a protocol to establish clear guidance to third parties and the Council in respect of such requests, and to promote an environment of openness and transparency. The protocol is attached as **Annex 2**.

17. ~~Publicity (see Appendix 2)~~

~~17.1 There are statutory requirements in place around advertising planning applications dependent upon the type of application received.~~

~~17.2 The Council will publish information widely as set out in Appendix 2.~~

~~17.3 All planning applications will be published on the Council's website.~~

~~17.4 All applications that require advertisement will be published in a local newspaper.~~

~~17.5 Where appropriate signs detailing and referencing the application will be put up on the site or as near as possible to it.~~

~~17.6 Neighbouring residents abutting the application red line site will be informed of an application by letter, depending on the application type and scale of proposal~~

~~17.7 Interested parties will have up to 21 days to respond with the exception of 'permission in principle' applications which have only 14 days to respond~~

~~17.8 If an application is amended, further notification and publicity will be given with 7–21 days' notice depending upon the extent of the changes~~

~~17.9 The Council will not determine an application until the notice period is complete.~~

~~17.10 Anyone can respond to a planning application regardless of whether they have been formally notified.~~

~~17.11 Decisions **will** be based upon planning policy and planning matters including:~~

- ~~○ design issues~~
- ~~○ privacy~~
- ~~○ traffic~~
- ~~○ access~~
- ~~○ landscaping~~
- ~~○ noise~~

~~17.12 The following **will not** be a factor in determining an application:~~

- ~~○ private property matters~~
- ~~○ any effect on the value of a property~~
- ~~○ the loss of a view~~
- ~~○ matters covered by other legislation~~
- ~~○ the character or motives of an applicant~~
- ~~○ any personal comments about the applicant or occupiers of the application property~~

~~17.13 Responses can be made in writing to the Director of Planning and Regeneration, by email to planningenquiries@guildford.gov.uk, or may be submitted via the Council's website where progress of the application can also be tracked.~~

~~17.14 Responses will be published on the Council's website unless they are of a confidential nature.~~

~~17.15 Correspondence will not usually be entered into.~~

~~17.16 If the required number of responses are received then public speaking will be triggered and all of those who responded with be notified. Those wishing to speak on an application must register by 12 noon on the day before the meeting as per the rules set out in Section 23 of this guide.~~

17.1 There are statutory requirements in place around advertising planning applications dependent upon the type of application received these are primarily set out in the Development Management Procedure Order:

- [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukxi/2015/595/contents/made)
<https://www.legislation.gov.uk/ukxi/2015/595/contents/made>

17.2 The Council will publish how it will carry out its duties to publicise applications in the Statement of Community Involvement which can be accessed on the Council's website:

- [Find out how we involve the community in our policies - Guildford Borough Council.](https://www.guildford.gov.uk/sci)
<https://www.guildford.gov.uk/sci>

17.3 Interested parties will have up to 21 days to respond with the exception of 'permission in principle' applications, where interested parties only have 14 days in which to respond. The Council cannot determine an application until this period has expired.

Appendix 1

- 17.4 If an application is amended, the case officer will consider whether the extent of the changes requires a 're-consultation' and will determine the length of time, this will not normally be less than 7 days.
- 17.5 Anyone can respond to a planning application regardless of whether they have been formally notified. All comments received are made public as part of the planning application process (although sensitive information is redacted online)
- 17.6 Comments on an application should be made via the Council's website: [Search or comment on a planning application - Guildford Borough Council](#) <https://www.guildford.gov.uk/commentonaplanningapplication> where progress of the application can also be tracked.
- If that is not possible, comments may be submitted by email to: planningenquiries@guildford.gov.uk or by letter to the Joint Executive Head of Planning Development.
- 17.7 The purpose of this process is to seek people's views on the application. It is not possible to respond to individual written representations or enter into correspondence.
- 17.8 The number of representations received can affect whether an application is referred to Planning Committee (see paras 18.2 and 18.3 below).

18. Planning Applications

- 18.1 All planning applications are determined either either under delegated powers by officers or by the Planning Committee~~by the Planning Committee or delegated to officers.~~
- 18.2 Planning applications are designated by statutory classes set out by regulation and these fall into three main categories:
- Major applications
 - minor applications
 - householders and others (these include listed building consent and advertisement consent applications)

Major applications and minor applications

Major development

- 10+ dwellings/over half a hectare/buildings exceeding 1000 sq. metres
- Office/light industrial – 1000+ sq. metres/1+ hectare
- Retail – 1000+ sq. metres/ 1+ hectare
- Gypsy/traveller site – 10+ pitches
- Site area exceeding 1 hectare

Minor development

- 1-9 dwellings (unless floor space exceeds 1000 sq. metres ~~under~~ or the site area exceeds half a hectare)
- Office /light industrial - up to 999 sq. metres/under 1 hectare
- General industrial – up to 999 sq. metres/under 1 hectare
- Retail – up to 999 sq. metres/ under 1 hectare
- Gypsy/traveller site – 0-9 pitches

- 18.3 Applications are referred ~~automatically~~ to the Planning Committee in the following cases:
- ~~for all householder and other applications, the trigger for Committee will be 10 letters/emails or more contrary to the officer's recommendation;~~
 - ~~for all Major and Minor applications, the trigger for Committee will be 20 letters/emails or more contrary to the officer's recommendation;~~

Appendix 1

- ~~○ large scale applications submitted by Guildford Borough Council, for example redevelopment of an existing site or provision of new housing. Small scale and minor schemes will be dealt with under delegated powers;~~
- ~~○ a councillor or a Council employee has submitted an application, or when the applicant is related to a councillor or council employee;~~
- ~~○ that the Director of Planning and Regeneration asks the Committee to decide; or~~
- ~~○ that a councillor asks the Committee to decide for planning reasons.~~
- where the number of representations contrary to the officers' recommendation received triggers the public speaking requirements at Planning Committee (as set out in Public Speaking Procedure Rules in the Council's Constitution):
 - for all householder and other applications: 10 representations
 - for all Major and Minor applications: 20 representations;
- all major applications submitted by Guildford Borough Council;
- when a councillor or a Council employee has submitted an application, or when the applicant is related to a councillor or council employee;
- when a Joint Strategic Director asks the Committee to decide; or
- when a councillor refers an item to planning committee for planning reasons.

- 18.4 Councillors are notified of all planning applications within their wards via the weekly lists. ~~A 21-day consultation period is set during which time anyone can submit written comments about the application. Councillors' comments received will be taken into account in determining the application; however, councillors who are members (or substitute members) of the Planning Committee should not provide a clear opinion either way at this stage as it could prejudice their ability to vote on the matter should it come before the Committee. At any point prior to the Committee meeting, should councillors wish to give an opinion, they are advised to state that this is their opinion based upon the information currently available, which may change in the light of additional information. Councillor comments are kept on file.~~
- ~~18.5 Councillors' comments received will be taken into account in determining the application; however, councillors should not provide a clear opinion either way at this stage as it could prejudice their ability to vote on the matter should it come before the Planning Committee. At any point prior to the Committee meeting, should councillors wish to give an opinion, they are advised to state that this is their opinion based upon the information currently available, which may change in the light of additional information. Councillor comments are kept on file.~~
- 18.57 Under the Council's Constitution, there is the ability to refer planning applications to full Council for consideration. In those circumstances, this code of practice would equally apply to consideration of such applications by all councillors (see Council Procedure Rule 26 (c)).
- ~~18.8 In order for a planning application to be referred to the full Council for determination in its capacity as the Local Planning Authority, a councillor must first with a seconder, write/email the Democratic Services and Elections Manager detailing the rationale for the request (the proposer and seconder does not have to be a Planning Committee member).~~
- ~~18.9 The Democratic Services and Elections Manager shall inform all councillors by email of the request to determine an application by full Council, including the rationale provided for that request. The matter would then be placed as an agenda item for consideration at the next Planning Committee meeting. The proposer and seconder would each be given three minutes to state their case. The decision to refer a planning application to the full Council will be decided by a majority vote of the Planning Committee.~~
- 18.6 In addition to planning applications, the Council also deals with other types of applications which are not subject to referral to Planning Committee as they deal with matters of fact

Appendix 1

rather than planning policies and/or are subject to determination deadlines which can result in 'deemed' consent being granted. These include:

- certificates of lawful development/use (existing and proposed)
- applications for prior approval or prior notification

19. Councillor 'call-up' to Planning Committee (see Annex 3) Seven-day notification period (see Appendix 3)

- ~~19.1 The 'seven day notification' process requires the officer report to be referred to all ward councillors in the event of a single objection being received or if they are looking to refuse a planning application.~~
- ~~19.2 Exemptions to this process are all Lawful Development Certificates; Prior Approval applications; Statutory Consultations from other authorities including Surrey County Council and Section 211 Tree applications (notices), whereby properties are located within a Conservation Area and are subject to a time limited 6 week process.~~
- ~~19.3 Many applications are referred to ward councillors on the 'seven-day notification' process, very few applications of these seven-day notifications are actually referred to Planning Committee for decision.~~
- ~~19.4 Councillors should use the 'seven-day' call up to Committee process responsibly.~~
- ~~19.5 The 7-day process is not an opportunity for lobbying by either the applicant or third parties. Please remember that during the seven-day notification process the officer report should always remain confidential and should not be shared or forwarded to the applicant, agent, Parish Council or third parties.~~
- ~~19.6 If no objection letters have been received then officers can process the application, without reference to Councillors, if the application is to be approved.~~
- ~~19.7 If a 'seven day notification' is necessary, the officer will get their report checked and signed off by a senior manager who has delegated authority to sign off. They will then utilise an automated template email to send out to all the ward members.~~
- 19.1 Councillors should use call up powers responsibly. There are likely to be many applications where Councillors may disagree with part of the recommendation. However, applications should only be referred to Planning Committee where there are strong planning grounds to do so. Referrals should not take place because an alternative development would be preferred or because of prior conduct of the applicant (including because the application is retrospective). By getting involved at an early stage, councillors can have their opinions and suggestions considered by officers and there is the opportunity for discussion.
- 19.2 The process for councillors to refer applications to the Planning Committee is set out in Annex 3.
- 19.3 Exclusions to this process are all Lawful Development Certificate applications; Prior Approval applications; Section 211 notifications (Trees in Conservation Areas), and Statutory Consultations from other authorities including Surrey County Council.
- 19.4 The officer report is confidential until it is published on the Planning Committee agenda, if it is referred to Committee, or until the application is determined under delegated powers, and must not be shared or forwarded to the applicant, agent, Parish Council, or third parties before this.

19.5 If, in the opinion of the Joint Executive Head of Planning Development and/or the relevant Joint Strategic Director, a call up request is not based on planning grounds then the request can be refused; however, officers will always explain their reason to the relevant Councillor.

19.6 Councillors who have exercised call-up will normally be expected to speak to the item when it is considered by the Planning Committee provided that, in the case of Planning Committee members, they have not demonstrated a predetermination.

20. Councillor Call-in

~~20.1 All councillors receive a list of planning applications submitted to the Council.~~

~~20.2 Any member of the council may call in a planning application to be determined by the Planning Committee rather than be determined under delegated powers.~~

~~20.3 There is a 21-day period between when an application is received and it being determined when a councillor can exercise call-in. To call in an application, a written request should be sent to the Director of Planning and Regeneration with reasons to justify this action.~~

~~20.4 The Director of Planning and Regeneration has the power to refuse the call-in if the justification is not reasonable.~~

~~20.5 Councillors who have exercised call-in will be expected to speak to the item at Planning Committee provided they have not demonstrated a predetermination.~~

~~20.6 All councillors receive a list of enforcement actions. Any councillor can call in an enforcement as above, but the time window will be 14 days.~~

21.20. Site Visits by Planning Committee members

Up-Front Site Visits

~~21.1 When the agenda for the Planning Committee meeting has been published, Planning Committee members can request that a site visit is undertaken for an application listed. Councillors must submit their request, detailing their reasons and material planning considerations, to the Committee Officer by no later than midday on the Thursday the week prior to the Planning Committee meeting.~~

20.1 Committee site visits may be conducted either before the meeting of the Planning Committee at which the application is to be determined following a request by a councillor, or the Committee may decide at the meeting to conduct a site visit. However, there may be circumstances where the Joint Executive Head of Planning Development considers the application to be of sufficient scale/importance that a site visit should be arranged irrespective of any request by Councillors. All formal site visits should follow the provisions of the Site Visit Protocol set out below.

Pre-Committee meeting Site Visits requested by a councillor

20.2. Pre-Committee meeting Site Visits assist with the debate at the meeting and avoid further delay to the determination of the application. Such site visits may be initiated on request by a councillor:

- when making a call up request, or
- following the publication of the Committee agenda by detailing their request to the Democratic Services Officer by no later than midday on the Thursday of the week prior to the Planning Committee meeting.

20.4.32 The request for a site visit is discussed in liaison with the Chairman of the Planning

Appendix 1

Committee and ~~Joint Executive Head of Planning Development at the Chairman's Briefing Planning Development Manager at the Pre-Planning Committee meeting~~ (which is generally held in the afternoon on the Thursday prior to the Planning Committee meeting). If the Chairman and ~~Joint Executive Head of Planning Development Planning Development Manager~~ agree the request for a site visit, the ~~Democratic Services Committee Officer~~ will confirm the site visit details with the ~~Planning Committee members Councillors~~ and applicant.

~~20.4.34~~ ~~Pre-Committee meeting~~ Site visits are scheduled to be held on the Tuesday, the day ~~before prior to~~ the Planning Committee meeting at approximately: 9:30am.

~~Requested Site Visits~~ Site Visits agreed by the Committee

~~20.4.54~~ Site visits can also be requested at a Planning Committee meeting, ~~and will only be agreed by the Committee and scheduled at an agreed date and time. Reasons should be given as to why a Pre-Committee meeting site visit was not requested. Councillors must be mindful of the delay such a deferral will cause to the application and the implications, including possible appeal against non-determination. If the request is supported by the Committee, the application will stand deferred to enable a site visit to be scheduled at an agreed date and time. The Democratic Services Officer will confirm the site visit details with the Planning Committee members and the applicant.~~

~~21.5~~ Site visits should only be held in circumstances in which it is not possible for councillors to make an informed decision without seeing the site for themselves. Examples of such circumstances include:

- ~~○ the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers~~
- ~~○ the comments of the applicant and objectors cannot be expressed adequately in writing~~
- ~~○ the proposal is particularly contentious~~

~~20.4.6~~ The Committee minutes will show the planning reasons for the decision to hold a site visit.

~~21.7~~ Site visits are generally not appropriate in cases where purely policy matters are at issue.

~~21.8~~ The applicant will be notified in advance in writing of the time and date of the visit. A planning officer and the Planning Committee Manager will attend.

~~21.9~~ Site visits are:

- ~~○ fact finding exercises.~~
- ~~○ not part of the formal consideration of the application and, therefore, public rights of attendance and speaking by applicants and objectors do not apply.~~
- ~~○ to enable officers to point out relevant features.~~
- ~~○ to enable councillors to ask questions on site for clarification. However, discussion on the application will only take place at Planning Committee when all parties will be present.~~

~~21.10~~ Councillors should not allow themselves to be addressed by individual parties, members of the public or applicants at councillors' site visits.

~~21.11~~ Any councillor who may visit the site alone is only entitled to view the site from public vantage points and has no individual rights to enter private property.

~~21.12~~ It is not good practice to enter the site if invited by the owner if alone as this can lead to the perception that the councillor may no longer be impartial.

~~21.13 The Chairman of the Committee or, in their absence, the Vice-Chairman must maintain a firm control over the conduct of the site visit, which, whilst not part of a formal meeting of the Planning Committee, must be conducted as a single meeting and in an orderly fashion.~~

~~21.14 There will be no decision made by the site visit party. The application subject of the site visit will normally be reported to the next available Planning Committee meeting for formal decision.~~

~~21.15 A half-day yearly tour, visiting two or three sites as exemplars will be arranged usually in September, for members of the Planning Committee.~~

Site visit protocol

20.7 In all cases site visits should only be held in circumstances in which it is not possible for councillors to make an informed decision on the application without seeing the site for themselves. Examples of such circumstances include:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing

20.8 Site visits are generally not appropriate in cases where purely policy matters are at issue.

20.9 A planning officer and the Democratic Services Officer will attend all formal site visits.

20.10 Site visits are:

- fact finding exercises.
- not part of the formal consideration of the application and, therefore, public rights of attendance and speaking by applicants and objectors do not apply.
- to enable officers to point out relevant features.
- to enable councillors to ask questions on site for clarification. However, discussion on the merits of the application will only take place at the Planning Committee meeting when all parties will be present.

20.11 Councillors should not allow themselves to be addressed by individual parties, members of the public or applicants at formal site visits.

20.12 The Chairman of the Committee or, in their absence, the Vice-Chairman must maintain control over the conduct of the site visit which, whilst not part of a formal meeting of the Planning Committee, must be conducted as a single meeting and in an orderly fashion.

20.13 Planning Committee members who are unable to attend a formal site visit may, if they wish, visit the site informally but should be mindful of the provisions of the Site Visit protocol. Any councillor who may visit the site alone is only entitled to view the site from public vantage points and has no individual rights to enter private property. If alone, it is not good practice to enter the site if invited by the owner, as this can lead to the perception that the councillor may no longer be impartial.

22.21. Planning Committee

22.21.1 The Planning Committee is made up of 15 borough councillors. A number of other councillors are named as substitute members of the Committee.

- ~~22.221.2~~ Planning Committee meetings are held in the Council Chamber, and usually take place every four weeks on a Wednesday evening beginning at 7pm. Sometimes there are special meetings to discuss major or strategic applications.
- ~~22.321.3~~ Agendas are published on the Council's website five clear working days before each meeting.
- ~~22.421.4~~ Any member of the public can attend Planning Committee meetings and listen to the discussions about applications and other matters on the public part of the meeting agenda.
- ~~22.521.5~~ The Planning Committee makes decisions on about 5% of the planning applications the Council receives. The [Director of Planning and Regeneration Joint Executive Head of Planning Development](#) decides all other applications under delegated powers.
- ~~22.621.6~~ All meetings are open to the public (s100 Local Government Act 1972). Where there are aspects of a matter which are required to be dealt with in private, the Committee may pass a resolution to exclude the public from the meeting (s100A(4) LGA 1972). That resolution must identify the matters to which it refers and state the description of the "Exempt Information" under [the relevant paragraph\(s\) of Part 1 of Schedule 12A](#) of the LGA 1972.
- ~~21.2.7~~ Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm. Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Committee.

Procedures for dealing with planning applications at Planning Committee

- ~~22.8~~ ~~Any member of the council who wishes to speak on an item on the agenda may do so with the consent of the Chairman of the Planning Committee in accordance with the rules for public speaking.~~
- ~~21.8~~ ~~[Councillors \(who are not Planning Committee members\) who wish to speak on a planning application on the agenda, whether the site is inside or outside of their ward, may do so with the consent of the Chairman of the Committee. They must register their wish to speak with the Democratic Services Officer by midday on the day prior to the Planning meeting and, if speaking in that capacity, cannot attend the meeting as a substitute.](#)~~
- ~~22.9~~ ~~Ward councillors (who are not Planning Committee members) must register to speak by midday on the day prior to the Planning meeting and if speaking in that capacity, cannot attend as a substitute.~~
- ~~21.2.409~~ Committee members wishing to speak for or against an application may for that item step away from the committee and speak [from the seat allocated to ward councillors when they address the Committee in the public speaking place](#), but shall not be entitled to speak for more than three minutes. They shall [then leave the chamber until the conclusion of take no further part in](#) that item, and ~~No~~ substitute shall be allowed for that item.
- ~~22.11~~ ~~Councillors must not attend a meeting of the Planning Committee with a prepared speech or notes giving the impression that they have predetermined their decision.~~
- ~~22.12~~ ~~Ward Councillors (who are not Planning Committee members) wishing to speak must register with the Committee Officer by email, by no later than midday the day before the meeting. The Committee Officer will then advise the Chairman.~~
- ~~21.2.103~~ Each speaker, including councillors or members of the public, may address the Planning Committee for a maximum of three minutes. In exceptional circumstances, the chairman can agree to speakers having longer than three minutes to address an item. An

example of this would be a strategic site with multiple and complex issues.

~~22.1.141~~ Under ~~Council the P~~ procedure ~~R~~ rules, the Chairman has the right to decline to hear anyone behaving improperly at the meeting.

~~212.125~~ No additional written evidence or information such as photographs, plans or models may be circulated at the meeting.

~~22.16~~ ~~The Chairman will move the officer recommendation following the debate. If it is seconded, the motion is put to the vote. A simple majority vote is required for the motion to be carried. If it is not seconded, or the motion is not carried, then the Chairman will ask for a second alternative motion to be put to the vote.~~

~~22.17~~ In any case where the motion is contrary to officer recommendation, that is:

- ~~○ Approval to refusal, or;~~
- ~~○ Refusal to approval;~~
- ~~○ Or where the motion proposed additional reasons or additional conditions.~~
- ~~○ Provided that a motion has been properly moved and seconded, the Chairman shall temporarily pause the meeting in advance of the vote. This is to allow officers; the mover of the motion and the Chairman the opportunity to discuss the reason(s), conditions (where applicable) and policy(ies) put forward to ensure that they are sufficiently precise, state the harm (where applicable) and support the correct policies to justify the motion. Following any pause and upon reconvening the meeting, Chairman will put to the Committee the motion and the reason(s) for the decision before moving to the vote.~~

21.13 The procedure to be adopted in circumstances where the Committee wish to overturn the officer's recommendation is contained in Annex 4.

~~212.148~~ Officers might occasionally defer a committee item following publication of the agenda.

~~212.195~~ The Planning Committee might defer an application at the meeting. A motion may be proposed and seconded at any time during the debate to defer or adjourn consideration of an application. The Committee will do this if they run out of time to discuss it fully, if members feel additional information is required, or if they would like to make a formal committee site visit. In most situations, they will not defer an application until all speakers have spoken about it at a meeting.

~~212.1620~~ If the ~~C~~committee defers an application, and there has already been public speaking on this item at a meeting, there will be no further public speaking on it when it is discussed again by the at Ccommittee. However, the comments of speakers from the first meeting will be fully summarised in the updated report.

~~212.1724~~ Councillors, objectors, the applicant and (where relevant) parish councils will be notified when an application is coming back to the Planning Committee following deferral.

23-22. Councillor behaviour in committee meetings

~~23-122.1~~ Councillors and officers will afford courtesy and respect to one another, ~~to officers~~ and to all of those attending committee meetings and/or making representation. ~~This will include the use of electronic devices in line with the Council's codes, protocols and policies.~~

~~23-222.2~~ Councillors will not pass notes in any formator paperwork between themselves or others during attending the meeting.

Appendix 1

~~23.322.3~~ ~~Committee members and substitute members Councillors~~ will not deliver pre-prepared speeches in support of, or in opposition to, any application giving the impression that they have pre-determined their decision. ~~Pre-prepared speeches can appear as if you have come to the meeting with a pre-determined view.~~

~~23.4~~ ~~22.4~~ It is considered acceptable for Committee members and substitute members councillors to have prepared bullet points for any contributions they may make in advance of a meeting. ~~Bullet points enable you to speak naturally rather than a pre-prepared speech which looks and sounds unnatural.~~

24.23. Webcasting

~~24.123.1~~ All Planning Committee meetings will be webcast, Webcasts of meetings will be suspended ~~except~~ in circumstances where the Committee considers confidential or exempt information during the consideration of any matter.

~~24.2~~ ~~Viewing figures for Planning Committee meetings can vary according to the type of applications being considered. Councillors should be mindful that for larger applications for example, the public interest will increase.~~

~~24.3~~ ~~Webcasting ensures the process of local government is both transparent and accessible to the public, helping people to engage with the decisions that affect their lives and community on a daily basis.~~

~~24.4~~ ~~Webcasting encourages good governance and preparation for meetings (by both members and officers).~~

~~24.5~~ ~~Councillors should be mindful of their body language, slumping can be misinterpreted as disengagement and eye resting as sleeping.~~

~~24.6~~ ~~Councillors should be aware of how their messages could be interpreted by the public such as applicants, agents, objectors and supporters of an application, both by what you say and how you say it.~~

~~24.7~~ ~~Councillors should be clear about the information they give so that it is clear to a lay person what you are doing and why you are doing it.~~

25.24. Reports containing confidential or exempt information

~~25.124.1~~ Reports or sections of reports published on pink paper marked "Restricted" will be subject to confidentiality and may not be viewed or shared with any other person outside of the Council.

~~25.224.2~~ On occasion, owing to the sensitivity of a matter, the confidential item will only be handed out in hard copy at the meeting itself. Councillors will be given sufficient time to read through the report prior to debating the item and coming to a conclusion.

~~25.324.3~~ Councillors must ensure that their private papers are handed back to the Democratic Committee Services Officer at the end of the consideration of that item. This is essential so that the papers can be confidentially shredded.

26. Officer Reports

~~26.1~~ ~~Officer reports are key to decision-making and make a significant contribution to consistency and confidence in the system.~~

26.2—At a minimum, the report should include:

- Executive Summary
- Recommendation
- Purpose of report
- Strategic priorities
- Background
- Consultations
- Equality & Diversity implications
- Financial implications
- Legal implications
- Human resource implications
- Options
- Conclusions
- Background papers
- Appendices

26.3—Planning reports should be accurate and comprehensive and include the substance of objections and the views of all of those who have been consulted.

26.4—It is important that the report sets out the pros and cons of planning proposals in a fair manner and then comes to a recommendation after balancing them.

26.5—Planning reports should be relevant and include a clear exposition of the development plan, site history and all other material considerations.

26.6—Planning reports should have a written recommendation of action with a technical appraisal which clearly justifies the recommendation.

26.7—If the recommendation is contrary to the development plan, the material considerations which justify this must be clearly stated in the planning report.

26.8—Supplementary Information Sheets (also known as “Late Sheets”) published on the day of the meeting will set out details of public speakers, and inform councillors and other interested parties of any amendments to recommendations or other considerations that may have arisen since the committee report was published with the agenda.

27.25. Public Speaking at Planning Committee (see Annex 5 Appendix 3)

25.7.1 The Guide to Planning Committee Meetings, which deals with public speaking at Planning Committee Meetings, is attached as Annex 5, also available for viewing on the website: <http://www2.guildford.gov.uk/councilmeetings/mgCommitteeDetails.aspx?ID=130>

28.—Decisions Contrary to Officer Recommendations

28.1—From time to time, members of the Planning Committee will disagree with the professional advice given by planning officers. It is vital that councillors supporting and seconding a motion that is contrary to officer recommendation cite clear and relevant reasons and policies.

28.2—If a councillor has concerns about an application, they should meet with the Planning Development Manager in advance of any decision to clarify the reasons for concern.

28.3—The planning reasons for rejecting an officer’s recommendation will be clearly stated and recorded in the minutes.

28.4—Where an appeal arises against such a decision, it is unlikely that the case officer will give evidence and, in some cases, consultants will be employed.

~~28.5 — Support will be given to the relevant councillors in preparing evidence for the appeal and providing factual evidence.~~

29.26. Councillor representations on appeals against planning decisions

~~269.1~~ Where a councillor wishes to support an appellant on any appeal against a Council decision on a planning matter, that councillor shall ~~as a matter of courtesy~~ give written notice of ~~their/ his or her~~ intention to the Monitoring Officer and ~~Executive Head of Service~~ **Planning Development Manager**, as well as the appellant. Where the appeal is to be dealt with at an inquiry, the ~~written~~ notice shall be delivered ~~to the Monitoring Officer and Planning Development Manager and the appellant~~ not less than five working days before the start of the inquiry

~~269.32~~ Councillors proposing to support an appellant at an appeal must in addition make it clear to the planning inspector that they are appearing in their personal capacity and not as a spokesperson for the Council.

30. — Planning Enforcement

~~30.1 — The Council's Local Enforcement Plan will set out how a breach of planning control should be addressed.~~

~~30.2 — Councillors should be aware of the ability of homeowners to build to an extent under permitted development and the background to every case should be carefully considered before action is taken.~~

~~30.3 — Planning enforcement is subject to a strong legal framework and councillors should take care not to prejudice the Council's position. Councillors should refrain from entering private land without permission and restrict any enquiries to matters of fact or general information.~~

~~30.4 — Any decision to take action will be made by either the Planning Committee or the Director of Planning and Regeneration under delegated authority.~~

31. — Further Reading

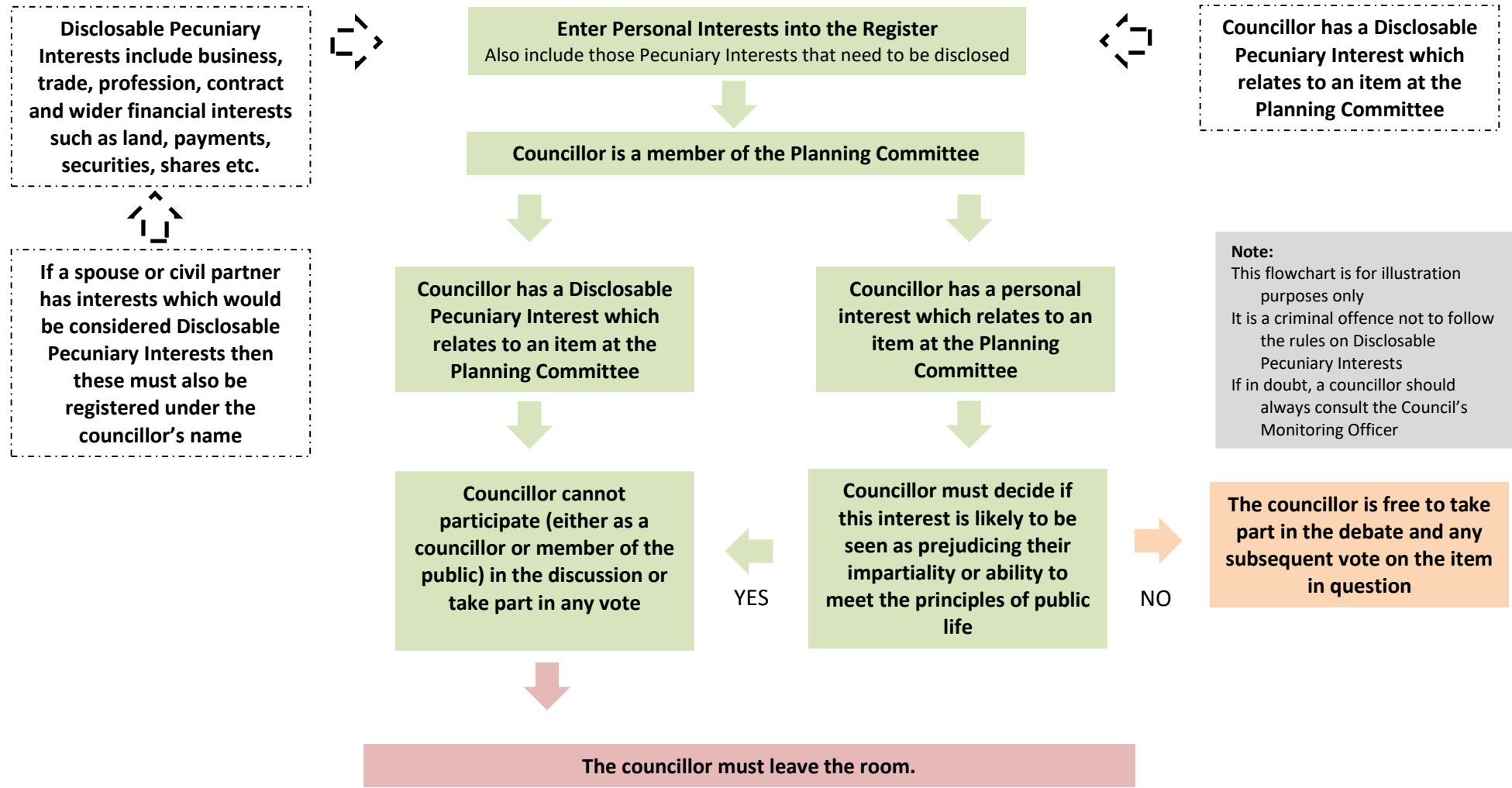
- ~~○ Probity in planning: the role of councillors and officers — revised guidance note on good planning practice for councillors and officers dealing with planning matters
Local Government Association, May 2009
<https://www.local.gov.uk/sites/default/files/documents/probity-planning-councill-d92.pdf>~~
- ~~○ The Localism Act 2011:
<https://www.gov.uk/government/publications/localism-act-2011-overview>~~
- ~~○ Revised National Planning Policy Framework Department for Communities and local Government, July 2018
<https://www.gov.uk/government/collections/revised-national-planning-policy-framework>~~
- ~~○ Royal Town Planning Institute Code of Professional Conduct:
https://www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf~~
- ~~○ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Openness and transparency on personal interests: guidance for councillors,
Department for Communities and Local Government, March 2013:
<https://www.legislation.gov.uk/uksi/2012/1464/contents/made>~~
- ~~○ The Planning System — matching expectations to capacity Audit Commission, February 2006:~~

Appendix 1

<https://webarchive.nationalarchives.gov.uk/20150423154441/http://archive.audit-commission.gov.uk/auditcommission/aboutus/publications/pages/national-reports-and-studies-archive.aspx.html>

- 'Standards Matter' Kelly Committee Jan 2013:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228884/8519.pdf
- Guildford Borough Council Planning and Building Control Documents:
<https://www.guildford.gov.uk/planningandbuildingcontroldocumentsandpublications>

Appendix 1: Councillor interests



Appendix 2: Publicity arrangements for planning applications

(NB: These arrangements are for guidance only and are subject to change)

	Website	Site notice	Site notice or neighbour/owner	Press advert	Parish council	Ward Member
Planning applications:	✓	✓	✓	✓	✓	✓
EIA development	✓	✓	✓	✓	✓	✓
Not in accordance with Development Plan	✓	✓	✓	✓	✓	✓
Affecting a public right of way	✓					
Major development	✓	✓	✓	✓	✓	✓
Affecting the setting of a Listed Building or the character and appearance of a Conservation Area	✓	✓	✓	✓	✓	✓
Other planning applications	✓	✓	✓	✓	✓	✓
Listed Building applications:	✓	✓	✓	✓	✓	✓
Vary or discharge conditions on Listed Building application	✓					
Prior Notifications Part 1: Larger Homes Household Extensions	✓		✓			
Prior Notifications: Part 3						
Class A, Class B, Class C, Class D, Class E, Class F, Class G, Class H, Class I, Class J, Class K, Class L, Class M	✓	✓				
Class N Sui Generis to Residential	✓	✓				
Class O Offices to Dwelling Houses	✓	✓				
Class P Storage or Distribution to Dwelling Houses	✓	✓				
Class Q Agricultural Buildings to Dwelling Houses	✓	✓				
Class R, Class S, Class T, Class U, Class V	✓	✓				
Prior Notifications Part 4: Class A-E Temporary Buildings and Uses	✓	✓				
Prior Notifications Parts 5 to 15	✓	✓				

	Website	Site notice	Site notice or neighbour/owner	Press advert	Parish council	Ward Member
Prior Notifications: Part 16 Telecommunications	Y	Y1				
Prior Notifications: Parts 17-19	Y	Y1				
Advertisement applications	Y	Y1	Y		Y	Y
Applications for works to TPO trees	Y	Y	Y		Y	Y
Notice of works to trees in Conservation Areas	Y				Y	Y
Hedgerow removal applications	Y	Y1			Y	Y

Y	Statutory requirement
Y1	Needs to stipulate on the site notice the reason for the advert

Annex 2: Protocol for informal presentations to councillors relating to development

A protocol to clarify the role of third-party informal presentations to the Council and to provide guidance to third parties and councillors on attending such informal presentations that **do not form part of any formal planning application, and which do not fall within the formal Application process and Pre-Application process.**

In the event of conflict between this protocol and the Councillor Code of Conduct or the Councillors' Handbook, (**the Codes**) the Code/Handbook shall take precedence.

PROTOCOL

Scope

1. This protocol covers any request made by a third party to make an **informal presentation to councillors**. A third party may also include the Council when acting as a developer, and/or landowner.
2. This Protocol seeks to establish clear guidance to third parties and the Council in respect of requests for and the presentation of third-party informal presentations to councillors, and to promote an environment of openness and transparency.

Informal Presentation Request

3. A request by a third party to make an informal presentation of information shall be made in writing to the relevant director setting out the reason(s) for the proposed presentation, the subject matter, and any other relevant information.
4. The director may agree or refuse the request or may agree to elements of the proposed presentation. Alternatively, the director may refer the request to the Executive or lead councillor (as appropriate to the proposal) together with any advice from the Monitoring Officer, to agree or to refuse the request or to agree to elements of it.

Refusal of Request

5. When a request is refused, the relevant director taking that decision will set out the reasons for the refusal, and provide the decision and reasons to the third party

Acceptance of Request

6. The relevant director shall provide a copy of this protocol to the third party with the decision that the informal presentation may proceed.

The Presentation

7. When a request is agreed the informal presentation shall proceed in accordance with the following rules:

The third party

- 7.1 The third party will:
 - a. arrange the platform/venue and time of the meeting, at no cost to the Council. The date and time to be agreed by the relevant director. Presentations will, generally, be convened in the evening and recorded wherever possible for those councillors that are unable to attend.
 - b. provide any presentation materials to the relevant director at least **5 working days** in advance
 - c. invite all councillors via email: councillors@guildford.gov.uk
 - d. keep a record of attendance at the presentation.

Appendix 1

- e. ensure notes of what is said at the presentation are taken and circulated to the relevant director for comment within 5 days of the presentation and once agreed will share them with all councillors.
- f. ensure that the presentation is for information purposes only and will not lobby any councillor(s) for support.

The Council

7.2 The Council will:

- a. distribute any presentation materials to Councillors at least **2 working days** in advance of the informal presentation.
- b. ensure that at least one planning officer and one senior officer, from the Joint Management Team, shall be present during the informal presentation.
- c. ensure that no councillor will be involved in making a presentation as a representative of the third party or otherwise.
- d. require all councillors to disclose any interests in the matter, in accordance with the Councillors' Code of Conduct, before the presentation starts, and all disclosures made will be recorded as part of the notes referred to in (7.1 (e)) above.

All parties

7.3 All Parties will:

- a. ensure that all those present understand that the presentation does not form part of the Council's decision-making process and that the process of debate and determination of any matter arising will be undertaken in accordance with the Council's normal procedures.
- b. ensure that those present understand that Councillors may ask questions for clarification purposes. Should any view(s) be expressed by any councillor(s) at the informal presentation, it will not bind them, nor the Council, to any decision in respect of any subsequent planning application that may be submitted in respect of the development proposal.

This Protocol is to be reviewed on or before two years of the date of its adoption.

Annex 3: Process for Councillor ‘call-up’ to Planning Committee

Applications to be included in this process:

- All planning applications, including S.73 applications
- Listed building consent applications
- Advertisement consent applications
- Tree Work Applications for trees subject to a TPO

Applications excluded from this process:

- Lawful Development Certificate applications
- Prior approval applications
- Section 211 notifications (Trees in Conservation Areas)
- Consultations from other authorities

Process

Upon validation of relevant applications, they will be included on the weekly list of planning applications. Councillors will have 21 days from the date of publication of the weekly list to submit a committee referral.

Councillors will be requested to make one of the following responses:

- No comments
- I have concerns/see potential benefits (these must be planning considerations, directly related to the applications) and would like the application referred to committee. Please indicate planning concerns/benefits:.....
.....
- I consider that due to the specific circumstances/scale of the development it will have wide ranging planning implications and I would like the application referred to committee. Please specify the nature of the wide-ranging implications:.....
.....
- I do not wish to refer the application to Committee, but I would like the following comments/suggestions for conditions taken into consideration:
.....
.....

Where there is more than one Councillor representing a ward, all the ward councillors are able to comment.

Response to be sent via email directly to the case officer and copied to PlanningEnquiries@guildford.gov.uk to ensure that it is recorded on the file and not missed due to officer absence. The request will be detailed in the officer’s report.

Where comments are raised that are NOT material planning considerations the case officer will advise the Councillor of this before drafting the report.

Determination/referral to Committee

The referral of the application MUST have regard to the Councillor(s) response and the following scenarios may occur:

- Where “No comments” are specified; or where no councillor response is received, the application will proceed under delegated powers. No further councillor contact required.
- Where a Councillor has made a comment the case officer will include it in the delegated report and notify the Councillor.
- Where the Councillor response is a request to refer to Committee. Their request will be referred to in the committee report. Should the application be amended, the officer will notify the Councillor to see whether their request stands.

All requests for referral to Planning Committee will be subject to ratification by the Chairman of the Planning Committee and Executive Head of Service (or Strategic Director). The draft agenda will be shared with the Chairman who can comment at that point on any of the Member referrals.

Note – these referral measures do NOT affect the automatic thresholds for Committee referrals i.e. number of representation letters received.

Reporting

Management information should be produced to facilitate reviews of the process. Subject to system constraints, the following information should be produced every 12 months and should include a comparison with the previous 12 months:

- Number of applications decided in the period
- Number and percentage of applications referred to the committee
- Number and percentage of referrals overturned by the committee
- Number and percentage of overturns upheld at appeal

Implementation

The new process will require changes to functionality of the current planning IT system. However, the new process will be implemented as soon as possible

Reviewing

A review of this process shall be carried out after the first 12 months of operation following its adoption, or sooner if sufficient cause is identified by the Executive Head of Service following consultation with the Chairman and Vice Chairman of the Planning Committee. Any such review should seek views from officers and Councillors over the operation of this process. It should also look at the management information and compare with the previous system.

It is intended that this should offer a flexible framework and be adaptable. If issues arise which do not fundamentally alter the concept, then these operational changes should be put in place to allow for efficient working.

Longer term reviews of delegated processes should be undertaken at least every 24 months, led by the Executive Head of Service, in consultation with the Chairman of the Planning Committee. Officers should also seek the views of members during such a review.

Annex 4: Procedure for councillors overturning officer recommendations at the Planning Committee

If, during the debate on an application, it is apparent that Committee members do not support the officer's recommendation, the Chairman shall ask if any Committee member wishes to propose a motion contrary to the officer's recommendation, subject to the proviso that the rationale behind any such motion is based on material planning considerations. Any such motion must be seconded by another Committee member.

- Where such a motion proposes a refusal, the proposer of the motion shall be expected to state the harm the proposed development would cause in planning terms, together with the relevant planning policy(ies), where possible, as the basis for the reasons for refusal. In advance of the vote, the Chairman shall discuss with the relevant officers, the proposed reason(s) put forward to ensure that they are sufficiently precise, state the harm that would be caused, and refer to the relevant policy(ies) to justify the motion. The Committee shall take a separate vote on each proposed reason for refusal, following which the Committee shall take a vote on the motion to refuse the application based on all of the agreed reasons.
- Where such a motion proposes approval, the proposer of the motion shall be expected to state why the proposed development would be acceptable in planning terms, together with the relevant planning policy(ies), where possible. In advance of the vote, the Chairman shall discuss with the relevant officers the proposed reason(s) put forward to ensure that the planning reason for approval is sufficiently precise to justify the motion. In addition, the Committee shall discuss and agree the substance of the planning conditions necessary to grant a permission before taking a vote on the motion to approve.
- Where such a motion proposes deferral, (for example for further information/ advice) the Committee shall discuss and agree the reason(s) for deferring the application, before taking a vote on the motion to defer.

If the motion is not seconded, or if it is not carried, the Chairman will determine whether there is an alternative motion and, if there is not, the Chairman will move the officer's recommendation and ask another Committee member to second the motion. That motion will then be put to the vote.

Annppendix 35: Speaking at Planning Committee



GUILDFORD
B O R O U G H

Guide to Planning Committee meetings



A guide for anyone who would like to:

- **know** how the committee process works;
- **attend** a Planning Committee meeting; or
- **speak** about an application at a Planning Committee meeting.

www.guildford.gov.uk

Introducing this guide

This guide explains what you need to know if you want to speak at or attend a Planning Committee meeting. You will find this guide useful if you:

- have applied for planning permission and your application is being considered by the committee;
- are the neighbour of someone whose planning application is being considered by the committee; or
- are interested in planning and how the Planning Committee makes decisions.

Attending a Planning Committee meeting

Where do Planning Committee meetings take place?

Our Planning Committee meetings are held in the Council Chamber, which is in the civic suite of Millmead House. The public entrance to the Council Chamber is signposted in the front car park at Millmead House.

Accessibility at Planning Committee Meetings

Planning Committee meetings are held in the Council Chamber which is accessed from the main reception up one flight of stairs. The main reception can be accessed via a disability ramp. The Council Chamber is accessible via a wheelchair accessible lift.

A hearing loop is also installed in the Council Chamber for those who are hard of hearing and use hearing aids. Please note that your hearing aid should be set to 'T'.

How often does the Planning Committee meet?

Planning Committee meetings normally take place every four weeks. Meetings normally are on Wednesday evenings and start at 7pm. Occasionally, there are special meetings to discuss major or strategic planning applications.

For a list of meeting dates please view our website at the following address:

<https://www.guildford.gov.uk/council>
<http://www2.guildford.gov.uk/councilmeetings/mgCommitteeDetails.aspx?ID=130>

Who can attend a Planning Committee meeting?

Any member of the public can attend our Planning Committee meetings and listen to the discussions about applications and other matters on the public part of the meeting agenda.

In certain situations, you can speak at a committee meeting about a planning application you're interested in. If you would like to speak, you will need to arrange this with us before the meeting.

More information about speaking at Planning Committee meetings is given from page 3.

There may be times when the Planning Committee needs to discuss matters that are not on the public part of the agenda. The Chairman will explain this at the meeting and end the public part of the meeting.

The public seating area is at the back of the Council Chamber, next to the public entrance. A layout plan of the Council Chamber is given on the back page of this guide showing the public seating area and where councillors and officers sit.

What does the Planning Committee do?

Our Planning Committee makes decisions on about 5% of the planning applications we receive. All other applications are decided by the [Joint Executive Head of Planning Development Director of Planning and Regeneration](#) under delegated powers.

The Planning Committee will make a decision on applications:

- for all householder and other applications, the trigger for committee will be [receipt of 10](#) letters/emails or more contrary to the officer's recommendation;
- for all Major and Minor applications, the trigger for committee will be [receipt of 20](#) letters/emails or more contrary to the officer's recommendation;
- ~~that are major large scale~~ applications submitted by Guildford Borough Council, ~~for example~~
- ~~redevelopment of an existing site or provision of new housing. Small scale and minor schemes will be dealt with under delegated powers;~~
- that a councillor or a council employee has made, or when the applicant is related to a councillor or council employee;
- that the [Joint Executive Head of Planning Development Director of Planning and Regeneration](#) asks the committee to decide; or
- that a councillor asks the [Committee](#) to decide for planning reasons.
- [that are major applications submitted by Guildford Borough Council;](#)

The agenda contains reports on each item referred compiled by officers, which will include the recommendation along with any conditions or reasons for refusal. The reports are available for Members to review prior to the meeting along with the relevant plans and other information within the file.

Agendas are published five working days before each meeting. The agenda can be viewed on our website: [Browse meetings - Planning Committee - Guildford Borough Council](#)
<https://democracy.guildford.gov.uk/ieListMeetings.aspx?CommitteeId=130> ~~or copies are available at the committee meeting.~~

Officers will carry out a brief presentation for each item, which may include relevant plans of the development and photographs of the site.

Who is on the committee?

The Planning Committee is made up of 15 borough councillors. A number of other councillors are named as substitute members of the committee.

~~Visit our website at www.guildford.gov.uk for the contact details of the members of the Planning Committee.~~
[Contact details of the members of the Planning Committee can be viewed on our website:](#)
[Contact details - Planning Committee - Guildford Borough Council](#)
<https://democracy.guildford.gov.uk/mgCommitteeMailingList.aspx?ID=130>

Webcasting Arrangements

Planning Committee meetings are recorded for live and/or subsequent broadcast on the Council's website in accordance with the Council's capacity in performing a task in the public interest and in line with the Openness of Local Government Bodies Regulations 2014. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

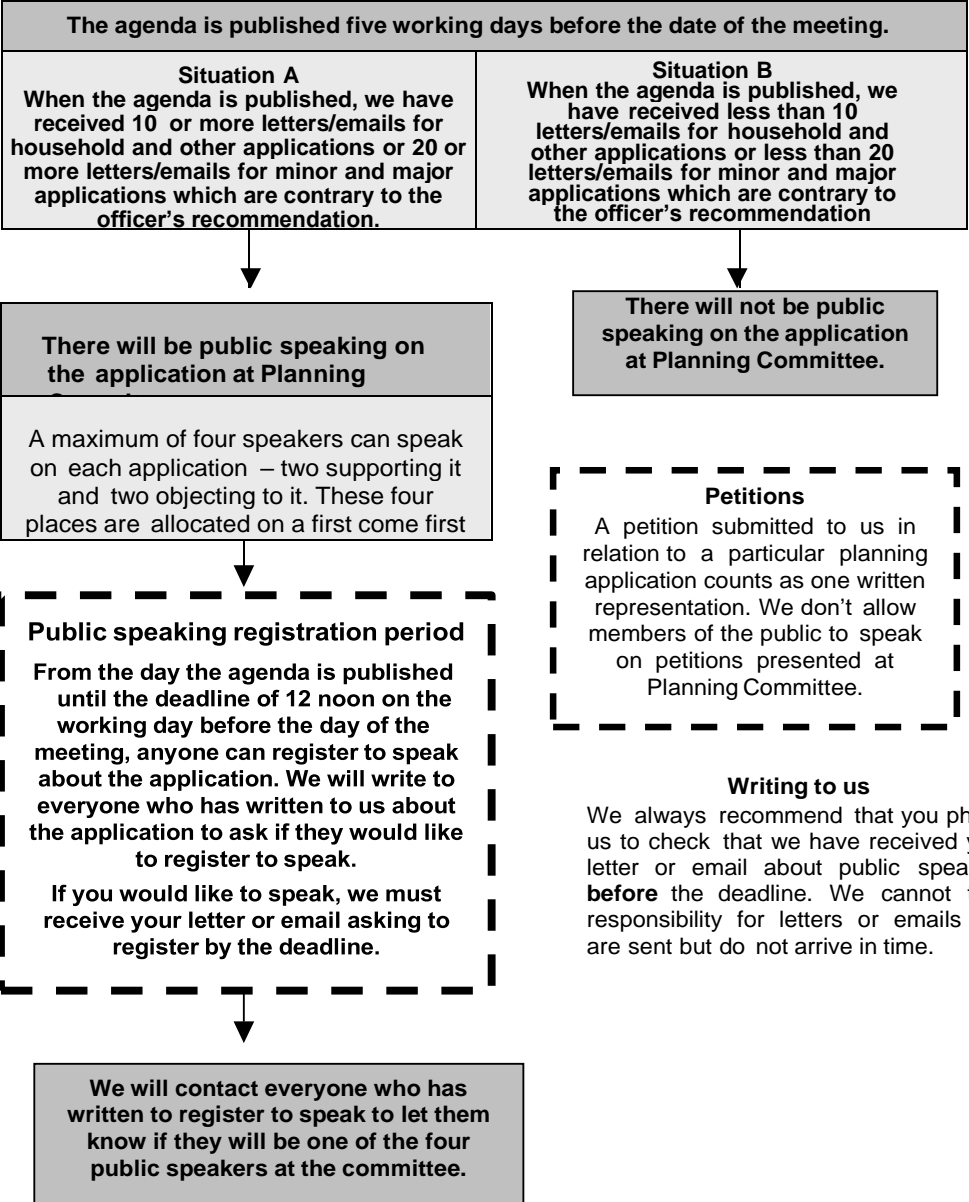
If you have any queries regarding the webcasting of meetings, please contact Committee Services by email on: committeeservices@guildford.gov.uk

The Public's Responsibilities

Members of the public must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. The public are entitled to attend public meetings of the Planning Committee, but must comply with the ruling of the Chairman. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting. The display of written signs or placards is not permitted in the Council Chamber or anywhere on the Council premises.

Speaking at Planning Committee meetings

The diagram below explains the process for deciding whether public speaking will take place on a planning application being presented to the Planning Committee.



Registering to speak

If you would like to register to speak on a public speaking item, registration starts on the day the agenda is published, which is five clear working days prior to the meeting. For example, planning committee meetings are normally held on a Wednesday, therefore the agenda is published on the Tuesday the week before. You must write to us or email us by **12 noon on the working day before the day of the meeting**. You must send your email or letter to:

[Sophie Butcher](#)

Democratic Services Officer [for the Planning Committee](#)

Guildford Borough Council

Millmead House

Millmead

GUILDFORD

Surrey GU2 4BB

Email: committeeservices.sophie.butcher@guildford.gov.uk

Tel: 01483 444056

Your letter or email must contain:

- ✚ Your name
- ✚ Your address
- ✚ Your daytime phone number
- ✚ The planning application number
- ✚ The name of the development
- ✚ Whether you want to speak to support or object to the application

If I write to you about an application, do I have to speak at a meeting?

No, you don't. If we receive a letter or email from you within the 21-day consultation period for the application, we will include a summary of your comments in the Planning Officer's report.

If we receive your letter or email **after the agenda is published but before noon on the working day before the day of the meeting**, the [Democratic Services Committee](#) Officer will include a summary of your comments in a document known as the 'Late Sheet'. This is given to councillors and the public at the meeting.

How many people can speak about each application?

Up to **four** people can speak about an application.

- ✚ Two speakers who **object** to the application.
- ✚ Two speakers who **support** the application.

As there can be no more than four speakers, we will only invite the first two people who write to us objecting to an application, and the first two people who write to us supporting an application to speak at the meeting.

A person can speak to the committee on behalf of others who support or object to an

application. If we have written to tell you that you can speak at a meeting, we may pass your details to others who object to or support the application so that they can contact you. If you would prefer us not to pass your details on to others, please let us know.

How long can I speak for?

Each speaker has three minutes to speak. The Chairman will let you know when your three minutes are almost finished. You must make sure you cover all of your points in those three minutes. You cannot ask councillors, officers or other speakers any questions.

You are not allowed to use any presentation equipment when you speak at the meeting. For example, you cannot give a computer presentation or use an overhead projector or a slide projector.

Can I hand out information at the meeting?

No, you cannot hand out any documents (such as plans and photographs) at the meeting and you cannot display any models. [If you wish to send in additional documentation, or information, you must do this in advance of the meeting and by no later than 12 noon on the working day before the meeting. This must be sent, preferably by email, to the Democratic Services Officer: \[committeeservices@guildford.gov.uk\]\(mailto:committeeservices@guildford.gov.uk\)](#)

If I am speaking at a meeting, when should I arrive?

You should arrive in the Council Chamber by 6.45pm. The [Senior Committee Democratic Services](#) Officer will introduce [them](#)herself and note your attendance.

What will happen at the meeting?

- Everyone who attends the meeting will be given a list of people who have registered to speak at the meeting.
- The committee will first consider the applications for which there is public speaking, in the order on the list of speakers.
- When the Chairman [announces calls out](#) the name and number of the application you are interested in a planning officer will give a presentation on it.
- The Chairman will call each of the speakers in turn to go to the public speaking desk at the front of the Council Chamber to have their say.
- When you have finished your speech, you will be asked to return to your seat in the public seating area.
- When all of the speakers have been heard, the committee will discuss the application. The public cannot take part in the discussion.
- The committee will make a decision on the application.

If you have registered to speak and you arrive late or don't turn up to the meeting, the committee will still make a decision on the application.

What happens if the committee put off making a decision on an application until a future committee meeting?

The Planning Committee might sometimes decide to put off making a decision on an application. This is known as 'deferring an application'. They will do this if they run out of time to discuss it fully, if members feel additional information is required, or if they would like to make a formal committee site visit. In most situations, they will not defer an application until all speakers have spoken about it at a meeting.

If the committee defers an application, and there has already been public speaking on this item at a meeting, there will be **no further public speaking** on it when it is discussed again at committee.

What issues should I speak about?

~~The Planning Committee's decision on an application can be based only on planning issues.~~

~~These planning issues can include:~~

- ~~• local, regional and national policies and government guidance;~~
- ~~• the design, appearance and layout of a proposed development;~~
- ~~• road safety and traffic issues;~~
- ~~• the effect on the local area and local properties;~~
- ~~• loss of light and overlooking;~~
- ~~• nuisance caused by noise, disturbance and smell; and~~
- ~~• protecting buildings and trees.~~

~~When you speak at a meeting, you should talk about these issues and explain how the proposed development will affect you personally.~~

~~The Planning Committee cannot consider issues that are not planning issues. These include:~~

- ~~• any disagreements between you and your neighbours about boundary lines or access;~~
- ~~• the developer's morals or motives;~~
- ~~• your loss of view across a neighbour's land; and~~
- ~~• how the development may affect the value of your property.~~

The Planning Committee can only take into consideration 'planning' issues relevant to the proposed development and cannot consider any other matters in its decision making. Therefore, when you are speaking to the Planning Committee you should focus only on Development Plan (local plan and neighbourhood plan) policies and other material planning considerations relevant to the Planning application that is being decided.

What are 'material planning considerations' and how are they determined?

Material considerations are decided by statements of national Government policy or by decisions of the courts. The following are examples of material planning considerations:

- Development Plan (local plan and neighbourhood plan) policies
- National Planning Policy Framework and other Government planning policy
- Overlooking / loss privacy
- Loss of light / overshadowing
- Effect on listed building
- Layout, density
- Design, materials
- Previous decisions/appeals
- Natural environment
- Flood risk
- Parking
- Highway safety
- Traffic
- Noise
- Disabled access

The following are examples of what are **not** material planning considerations:

- House prices and house insurance
- Personal circumstances
- The applicant - characteristics and conduct
- The strength or volume of opposition / objection
- Loss of a *private* view
- Damage to property or Party Wall Act matters
- Loss of trade
- Boundary disputes or covenants

In making its decision the Committee must take into account the officer's report.

The Committee cannot give weight to non-planning consideration in making a planning decision. The weight that should be attached to each material planning consideration in any particular case is for the Committee to determine as decision maker.

At the meeting

1. Please keep your speech to the subject of the application and material planning considerations. The Chairman will stop you speaking if you deviate from planning issues
2. Please do not make statements of a personal or slanderous nature or be abusive
3. During your speech, you are not permitted to refer to the conduct of officers or councillors or to the manner in which an application has been dealt with. The Council has a separate Complaints Procedure in place to deal with these issues
4. You are also not permitted to make personal comments about individual applicants, objectors, supporters or others involved in an application.
5. Do not interrupt other speakers, or the Committee during the debate
6. The Chairman of the Planning Committee has sole discretion on whether a person can speak or not and retains overall responsibility for the smooth running of the meeting. The Chairman's decision on procedural matters is final and must be adhered to.

If you would like more advice on what is a planning issue, please email planningenquiries@guildford.gov.uk or phone planning enquiries on 01483 444609.

For more information about committee meetings and speaking at a Planning Committee meeting, contact ~~Sophie Butcher, the~~ Democratic Services Officer for the Planning Committee, by emailing committeeservices@guildford.gov.uk or by phoning 01483 444056.

The council chamber layout for a Planning Committee meeting

		Senior Committee Officer	Senior Solicitor	Chairman	Planning Development Manager	Planning Officer		
--	--	--------------------------	------------------	----------	------------------------------	------------------	--	--

Public Speaker												NPCMS
Cllr												Cllr
Cllr												Cllr
	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	

Cllr: Planning Committee Member
NPCMS: Non-Planning Committee member speaker

Committee Room 1 public seating
Any other councillors who attend the meeting will sit here

Please contact us to request this document in an alternative format

Contact us:

Guildford Borough Council
Millmead House
Millmead
Guildford
Surrey GU2 4BB



Appendix 4: Seven day notification process template

The template used is as follows:

You may search for a planning application via:

<https://www.guildford.gov.uk/searchforaplanningapplication>

Recommended decision

For reference

The application is recommended for refusal for the reasons set out in the report and therefore in line with our delegated practices I would be grateful for your confirmation of the recommendation or, if you do not agree that the application should be refused, your reasons for calling the item to Planning Committee (please note these must be valid reasons why you feel that the proposal may warrant approval or to justify any additional reasons for refusal)

Please note comments must be received within seven days from the date of this email or the application will be determined in accordance with the officer recommendation. This includes ensuring full reasons and policies, where applicable, are provided within the seven day period. Please ensure responses are received before 12 noon on the final day to ensure that applications are determined in a timely manner.

Where less than seven days

Whilst the usual response time is seven days, the deadline for response in this instance expires on I would therefore be very grateful if you could respond no later than 12 noon on this date to allow the application to be determined on time. If, for any reason, you are unable to respond sooner, we will not issue any decision until the full seven-day period has expired.

Please make your selection using an X

Councillor response	<input checked="" type="checkbox"/>	
I agree the officer recommendation	<input type="checkbox"/>	
I would like to refer the application to planning committee	<input type="checkbox"/>	Reasons Planning policies
I would like to request a committee site visit	<input type="checkbox"/>	Reasons for a site visit

Under current arrangements, the 15 members of the Planning Committee are the nominated responders for seven-day notifications for their respective wards. Where there is more than one member of the Planning Committee representing the same ward, those members will agree amongst themselves who the nominated responder for seven-day notifications will be and inform the Planning Development Manager accordingly. If they are unable to agree, it will fall to the Chairman of the Planning Committee, in consultation with their Group Leader(s), to nominate the single responder.

In relation to seven-day notifications in respect of applications in multi-member wards not represented on the Planning Committee, the relevant ward members will agree amongst themselves who the nominated responder for seven-day notifications will be and inform the Planning Development Manager accordingly. If they are unable to agree, it will fall to the Chairman of the Planning Committee, in consultation with their Group Leader(s) to nominate the single responder.

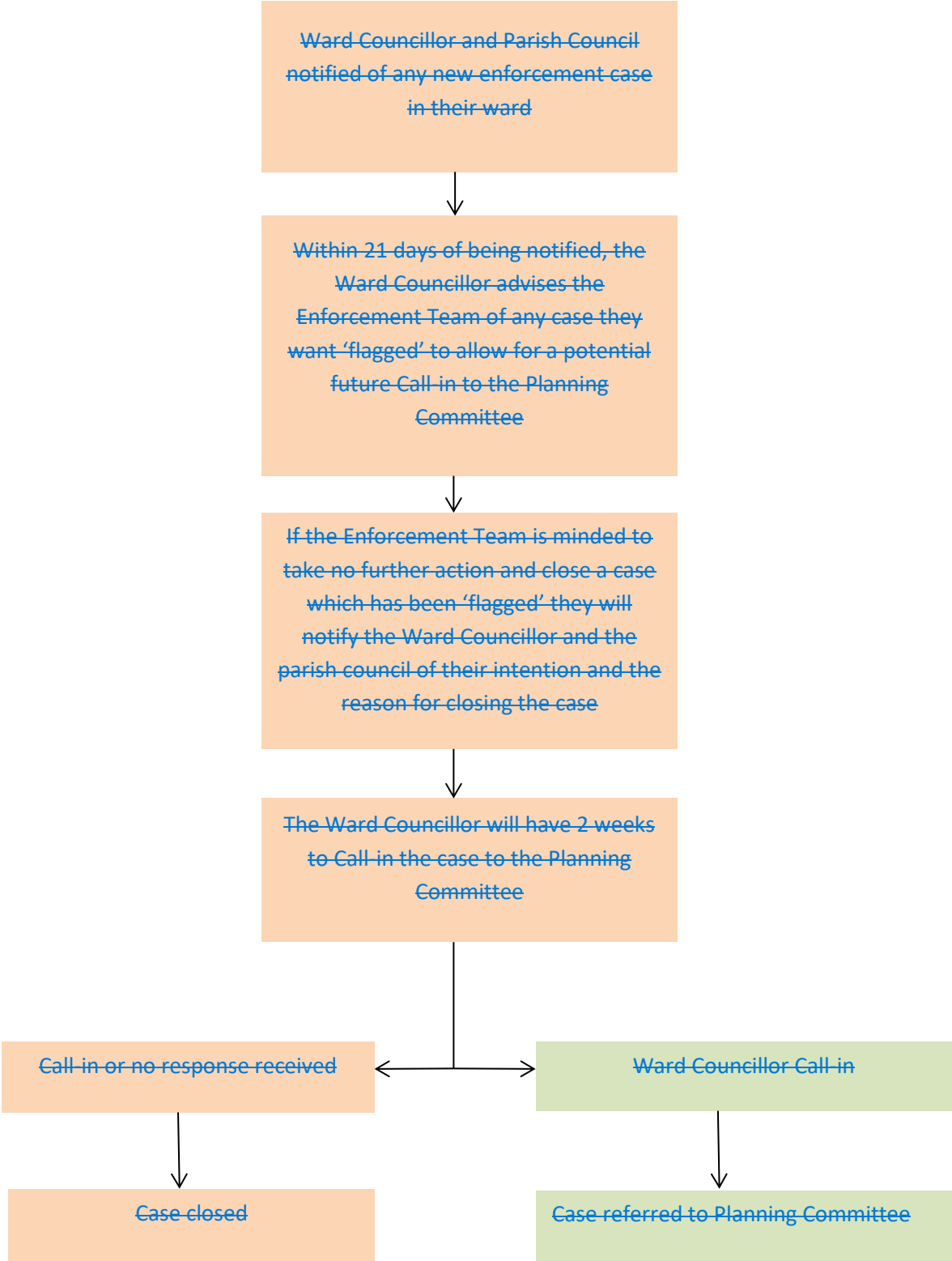
Once officers have heard back from the nominated responder the decision notice can be issued.

~~Where a ward member who is not the nominated responder in respect of that ward does not agree with the nominated responder in relation to a response to a particular application, they must raise their concerns with the nominated responder before a response is sent. If a response is sent directly to the case officer from a ward member who is not the nominated responder, that councillor will be requested to discuss with the nominated responder in the first instance. The final response should then come from the nominated responder.~~

~~Important elements to remember~~

- ~~• To respond promptly and, if possible, early in the process, there is no need to wait for the full 7 days~~
- ~~• If you are going away and have no, or limited, access to emails please nominate another councillor to respond on your behalf. This should be another ward councillor, or councillor for an adjoining ward, or the Chairman/Vice Chairman of the Planning Committee.~~
- ~~• If we have not heard back from you following the 7-day period, we will issue the decision in accordance with the officer recommendation.~~
- ~~• We encourage councillors to approach the case officer early in the application process should they have concerns or require clarification on points. Please remember that the seven-day notification process is not a councillor negotiation process. It is a process to agree the officer recommendation or to request a referral to the Planning Committee for planning reasons supported by planning policies where applicable.~~
- ~~• Should the officer report be significantly altered or changed post a seven day notification referral to councillors, (by virtue of the item being called to Committee), then as a courtesy the revised report will be sent out to the ward Councillors once more.~~

**Appendix 5:
Enforcement Call-in Procedure**



This page is intentionally left blank

PROBITY IN PLANNING LOCAL CODE OF PRACTICE –HANDBOOK FOR COUNCILLORS AND OFFICERS

CONTENTS

Page

1. Foreword.....

2. Introduction.....

3. Planning policies and the Local Plan.....

4. Applicability of the code.....

5. Breaches of the code.....

6. Training.....

7. Role of the Councillor.....

8. Role of the Planning Officer.....

9. Role of the Monitoring Officer.....

10. Disclosure and registration of interests.....

11. Predisposition, predetermination or bias.....

12. Limiting discretion.....

13. Members of more than one tier of local government.....

14. Development proposals submitted by the council, councillors and officers.....

15. Lobbying and Negotiations.....

16. Pre-application discussions including Planning Performance Agreements.....

17. Publicity.....

18. Planning applications.....

19. Councillor Call-up to Planning Committee.....

20. Site visits by Planning Committee Members.....

21. Planning Committee.....

22. Councillor behaviour in committee meetings.....

23. Webcasting of meetings.....

24. Reports containing confidential or exempt information.....

25. Public speaking at Planning Committee.....

26. Councillor representations on appeals against planning decisions.....

Annexes:

Annex 1: Councillor interests.....

Annex 2: Protocol for Informal Presentations to Councillors relating to Development

Annex 3: Process for Councillor ‘call-up’ to Planning Committee

Annex 4: Procedure for councillors overturning officer recommendations at Committee

Annex 5: Public Speaking at Planning Committee

1. Foreword

- 1.1 This Probity in Planning guide is for councillors and planning officers and reflects the requirements of the Localism Act 2011, the recommendations of the Third Report of the Committee on Standards in Public Life ('Nolan Report'), Local Government Association guidance and the Council's own experience.
- 1.2 The guidance clarifies how all councillors should understand their roles and responsibilities when involved in planning discussions, plan making and determining planning applications.
- 1.3 It is important that councillors and officers familiarise themselves with this guidance and with the other Codes and Protocols which sit alongside it in Part 5 of the Council's Constitution. Councillors must ensure that their conduct accords with the requirements of the Councillors' Code of Conduct and Protocol on Councillor/Officer Relations. Equally, officers must ensure that their conduct accords with the Code of Conduct for Staff and the Protocol on Councillor/Officer Relations.
- 1.4 Councillors should note that this guidance does not constitute legal advice.
- 1.5 Any councillor or officer with any doubts about the matters presented in this guidance should contact the Monitoring Officer for clarification.

2. Introduction

- 2.1 The planning system involves taking decisions about the use and development of land. It is not an exact science and relies on informed judgement within a firm policy context. It is important that all concerned (applicants, objectors, practitioners, officers, councillors, and the general public) have complete confidence in the integrity and transparency of the system.
- 2.2 Councillors are required to adhere to the following general principles prescribed by the Localism Act 2011, as attached to the Councillors' Code of Conduct:
 - **Selflessness.** Holders of public office should act solely in terms of the public interest.
 - **Integrity.** Holders of public office must avoid placing themselves under any obligation to people or organisations that try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves their family or their friends. They must declare and resolve any interests and relationships.
 - **Objectivity.** Holders of public office must act and take decisions impartially, fairly and on merit using the best evidence and without discrimination or bias.
 - **Accountability.** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - **Openness.** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
 - **Honesty.** Holders of public office should be truthful.

- **Leadership.** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Officers are also obliged to adhere to the above-mentioned principles.

- 2.3 The Councillors' Code of Conduct makes clear that, in taking public office, councillors must accept constraints on their behaviour. It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- 2.4 This local code of practice has been prepared to reflect government guidance within the local context of Guildford. It is intended as a guide to councillors and officers to ensure that decisions are taken impartially, without bias and are well founded.

3. Planning policies and the Local Plan

- 3.1 This local code of practice also applies to decisions on development plans, supplementary planning guidance or other policy documents.
- 3.2 Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended). Decisions must be taken in accordance with the provisions of the Development Plan and councillors must vote in accordance with it unless there are mitigating material considerations.

4. Applicability of the Code

- 4.1 This code of practice is intended to be a guide for councillors and officers as to the conduct expected of them on matters relating to planning in the Borough.
- 4.2 Councillors and others to whom this code applies must make their own judgments as to its application to specific planning matters, including individual planning applications. In most cases, its applicability will be clear. If any councillor is in doubt, they should seek advice from the Monitoring Officer. However, the final decision must be for the councillor to determine.

5. Breaches of the Code

- 5.1 A breach of the code is a serious matter and, although usually not amounting to a breach of the criminal law, may incur an adverse report from the Local Government Ombudsman and/or action under the Councillors' Code of Conduct.

6. Training

- 4.1 The Council requires that all councillors receive an introduction to planning training session when they are elected. It is important for all councillors, not only those sitting on the Planning Committee, to receive this training as some complex applications can be referred to full Council for determination. No member or substitute member of the Planning Committee shall be permitted to sit on the Committee as a decision-maker unless they have completed the introduction to planning training session.

- 4.2 For those members sitting on the Planning Committee further training sessions are delivered regularly. It is important that members and substitute members attend all training sessions so that any risk for the Council is kept low and the local community can be reassured that those determining Planning matters have the knowledge to be able to do so.
- 4.3 Members of the Planning Committee or substitute members who are absent when training is delivered must ensure they view the training recorded on the webcast to familiarise themselves with the training provided.
- 4.4 All councillors will receive training on the Councillors' Code of Conduct to remind them of the responsibilities of public office and remind them to review their register of interests regularly.

5. Role of the Councillor

- 5.1 Councillors and officers have different but complementary roles. Both serve the public, but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole.
- 5.2 The Court of Appeal has held that Planning Committees are not acting in a judicial or quasi-judicial role when deciding planning applications but "in a situation of democratic accountability". Planning Committee Members **must** therefore:
1. act fairly, openly and apolitically;
 2. approach each planning application with an open mind, avoiding pre-conceived opinions;
 3. carefully weigh up all relevant issues;
 4. determine each application on its individual planning merits;
 5. avoid undue contact with interested parties;
 6. ensure that the reasons for their decisions are clearly stated and
 7. consider the interests and well-being of the whole borough and not only their own ward.
- 5.3 The above role applies also to councillors who are nominated as substitutes to the Planning Committee. Equally, the conduct of members of any working party or committee considering planning policy must be similar to that outlined above relating to the Planning Committee.

6. Role of the Planning Officer

- 6.1 Officers advise councillors and the Council and carry out the Council's work. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.
- 6.2 Planning officers advise councillors **impartially** on planning policy and planning applications. They will:
1. provide professional, objective and comprehensive advice;
 2. provide a clear and accurate analysis of the issues;
 3. advise on the development plan and other material considerations;

4. give a clear recommendation; and
5. implement the Committee's/Council's decisions (including those made by officers under powers delegated to them).

7. Role of the Monitoring Officer (or representative)

7.1 The Monitoring Officer will give clear, **impartial**, and objective advice to councillors:

- on legal issues arising out of the conduct of the Committee's functions; and
- regarding the implementation of the Committee's decisions and proposed courses of action

7.2 The Monitoring officer will implement the Committee's/Council's decisions so far as they require the completion of any legal agreements, institution/defence of any proceedings, issuing of notices etc.

7.3 The Democratic Services and Elections Manager (or representative) will also give clear, **impartial**, and objective advice to councillors as necessary on administrative issues arising out of the conduct of the Committee's functions.

8. Disclosure and Registration of Interests (see also Annex 1)

Disclosable pecuniary interests (DPIs).

8.1 A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property). Councillors, or their spouse/partner, with a DPI in relation to any item on the Planning Committee agenda, may not speak on that item and should absent themselves from the debate and the vote. There is clear guidance in the Councillors' Code of Conduct on what constitutes a 'disclosable pecuniary interest'. The Council has a publicly available register of councillors' interests, a copy of which is also available for inspection on the Council's website: [Your Councillors - Guildford Borough Council](#).

Non-pecuniary interests

8.2 If a councillor has a non-pecuniary interest they must declare it at the meeting, but they may speak on the item and need not absent themselves from the debate or the vote. Councillors should check with the Monitoring Officer if they are in any doubt. **A non-pecuniary interest is an interest that may, in the mind of a reasonable observer, affect a councillor's objectivity or judgement of the public interest. Examples of non-pecuniary interests include, but are not limited to:**

- (a) membership of organisations to which the councillor has been appointed or nominated by the Council and in which the councillor holds a position of general control or management, or
- (b) membership of, or holding a position of general control or management in, any body
 - that exercises functions of a public nature;
 - that is directed to charitable purposes; or
 - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

8.3 It is very important that councillors disclose any interests they may have in particular schemes at the earliest opportunity. This requirement relates to individual planning applications and planning policies and proposals, which are being developed in development plans, supplementary planning guidance or development briefs.

8.4 Interests must be disclosed by councillors before the Committee discusses the item concerned. Such disclosures are usually taken at the start of the meeting and are recorded in the minutes.

Officers' interests

8.5 It is also important for officers to disclose interests in writing to their Joint Executive Head of Service /Joint Strategic Director, if they consider that those interests might affect their objectivity. **In such circumstances, officers shall take no part in any decision-making process which relates to or affects those interests.**

8.6 The Council also holds a register of officers' interests, which is not available to the public.

Gifts and Hospitality

8.7 The Councillors' Code of Conduct sets out rules on acceptance of gifts and hospitality by councillors. There is also guidance for officers and a hospitality register is held within directorates.

9. Predisposition, Predetermination or Bias

11.1 It is entirely permissible for Committee Members, who are democratically accountable decision makers, to be predisposed towards a particular outcome. Nonetheless, they must address the planning issues before them fairly and on their individual merits. That means they can have a view on the application but must not make up their minds on how to vote before formally considering the application, listening to the officer presentation, any representations and the full debate. Committee Members must have an open mind to the merits of a proposal before it is formally considered at the Committee meeting and they must be prepared to be persuaded by a different view in the light of any detailed arguments or representations concerning the particular matter under consideration.

10. Limiting discretion

10.1 Councillors being involved with a matter that they will later be called upon to take a decision on as a member of the Council can limit their discretion.

10.2 Pressure is sometimes put on councillors to comment on a matter before the meeting, either in the press or on social media. Councillors should not put themselves in a position where it appears they have already taken a view. Councillors should always say that they will consider all the facts and take a decision based on the merits of the case presented.

11. Members of more than one tier of local government

11.1 Provided a member of the Planning Committee has not acted at parish or county level, in so far as they will have predetermined the matter, then they may remain in

the Committee meeting to speak and vote.

- 11.2 Councillors serving on other councils may reserve their right to change their position when more information is provided at the Planning Committee meeting. More information may become available in the Planning Officer's report, which will include all representations.

12. Development proposals submitted by the Council, councillors and officers

- 14.1 Planning applications submitted by individual councillors or officers will be determined by the Planning Committee and not under delegated powers in order to maintain propriety and transparency.
- 14.2 Any councillor submitting a planning application is likely to have a disclosable pecuniary interest and must follow the guidance set out in the Councillors' Code of Conduct.
- 14.3 Aside from minor Council applications, which can be approved under delegated authority proposals for the Council's own development will be treated with the same transparency and impartiality as those of private developers.

14.4 The Council has a corporate duty to ensure that:

- (i) Its development management functions are undertaken by identified persons provided with the necessary resources and acting impartially and objectively;
- (ii) any person acting or assisting in the handling of a planning application is prevented from being involved in promoting or assisting in the promotion of the application and/or the development; and
- (iii) any person involved in promoting or assisting in the promotion of the development is prohibited from giving any instructions to, or putting any pressure upon, any person acting or assisting in the handling of the planning application, or from attempting to do so.

- 14.5 It is recognised good practice to ensure that portfolio holders do not sit as members of the Planning Committee given the potential conflict of interest that is likely to exist in respect of applications in respect of the Council's own developments or developments which directly affect the Council's land or property.

13. Lobbying and Negotiations

- 13.1 Lobbying is usual during the planning process and those affected by an application will seek to influence individual councillors and the Planning Committee. Councillors should expect to be contacted in this regard and should listen to all views.
- 13.2 Councillors may offer advice, for example suggesting to those lobbying that they write to the planning officer or register to speak at the Committee but should take care when being lobbied that any comments they make do not give the impression that they have predetermined the matter. Instead, they should make it clear that they will not make a final decision until they have heard all of the arguments at the Committee meeting.

- 13.3 Political group decisions must not be taken on planning applications and related matters and councillors should not lobby one another or agree with one another on how to vote.
- 13.4 Councillors should adhere to the Protocol on Councillor/Officer Relations at all times and should not attempt to influence or to apply pressure to officers in any way. (If a councillor is concerned about the recommendation or the advice a case officer is giving, the Joint Executive Head of Planning Development or the Joint Strategic Director (Place) must be informed immediately.)
- 13.5 Councillors on the Planning Committee may receive correspondence from the public asking them to reject or grant an application. If the correspondence is received before the officer has completed their report, the councillor should direct the author to submit their representations via the website: [Search for information about a planning application - Guildford Borough Council](#).
- 13.6 If the correspondence is received after the officer has completed their report and before the Planning Committee meeting sits, the councillor should forward the correspondence to the Planning Committee's Democratic Services Officer, who will forward to the whole Planning Committee and the relevant planning officer(s).
- 14. Pre-Application Discussions including Planning Performance Agreements (PPAs)**
- 14.1 Pre-application discussions with potential applicants are an essential part of the planning process and help identify problems and address issues before the submission of an application. They can also be used to identify the right means of engagement before and during the application process. Such discussions are led by officers and the Council has a paid pre-application advice service and PPA service in place to ensure all discussions take place correctly. Councillors should be cautious of being approached in an attempt to circumvent this normal process. If any enquiries are received about obtaining pre-application advice, the Councillor should direct the enquirer to the Council's website: [Apply for our pre-application advice - Guildford Borough Council](#). Pre-application advice is confidential until the submission of an application and the applicant's consent must be gained before disclosing the advice. If a Councillor takes part in the pre-application process, they must be mindful of this confidentiality.
- 14.2 If a potential applicant requests a meeting with a Councillor, either before or after a pre-application enquiry has been made, the Councillor should contact officers before agreeing. The officer will advise whether a meeting at this stage is appropriate. If a meeting does take place as a matter of course an officer should be present. These should generally be in exceptional circumstances so as not to undermine normal pre-application discussions and to ensure good use of officer and Councillor time.
- 14.3 For large scale development proposals, it is appropriate to include relevant Councillors; however, this will normally be a briefing from officers rather than as direct engagement with the developer. Initially it will be for the officer to determine whether this briefing should take place.

- 14.4 As part of the pre-application advice process on larger developments a [Design Review Panel](#) process is also offered. This comprises design experts who are independent from the Council, more information on this process is available online. Relevant ward councillors would be invited to attend that review.
- 14.5 There should be a record of any meetings which take place. It should be agreed ahead of the meeting who will be responsible for taking notes/records (applicant/officer/ councillor etc). Before being finalised, those notes should be circulated to attendees to ensure transparency. A copy will then be placed on the pre-app file for record.
- 16.6 Occasionally, a third party may make a request to make an informal presentation to councillors on development proposals that do not form part of any formal planning application, and which do not fall within the formal Application or Pre-Application process. The Council has adopted a protocol to establish clear guidance to third parties and the Council in respect of such requests, and to promote an environment of openness and transparency. The protocol is attached as **Annex 2**.

15. Publicity

- 15.1 There are statutory requirements in place around advertising planning applications dependent upon the type of application received these are primarily set out in the Development Management Procedure Order:
- [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2015/595/contents/made)
<https://www.legislation.gov.uk/uksi/2015/595/contents/made>
- 17.2 The Council will publish how it will carry out its duties to publicise applications in the Statement of Community Involvement which can be accessed on the Council's website:
- [Find out how we involve the community in our policies - Guildford Borough Council](https://www.guildford.gov.uk/sci)
<https://www.guildford.gov.uk/sci>
- 17.3 Interested parties will have up to 21 days to respond with the exception of 'permission in principle' applications, where interested parties only have 14 days in which to respond. The Council cannot determine an application until this period has expired.
- 17.4 If an application is amended, the case officer will consider whether the extent of the changes requires a 're-consultation' and will determine the length of time, this will not normally be less than 7 days.
- 17.5 Anyone can respond to a planning application regardless of whether they have been formally notified. All comments received are made public as part of the planning application process (although sensitive information is redacted online)
- 17.6 Comments on an application should be made via the Council's website: [Search or comment on a planning application - Guildford Borough Council](https://www.guildford.gov.uk/commentonaplanningapplication)
<https://www.guildford.gov.uk/commentonaplanningapplication> where progress of the application can also be tracked.

If that is not possible, comments may be submitted by email to: planningenquiries@guildford.gov.uk or by letter to the Joint Executive Head of Planning Development.

17.7 The purpose of this process is to seek people's views on the application. It is not possible to respond to individual written representations or enter into correspondence.

17.8 The number of representations received can affect whether an application is referred to Planning Committee (see paras 18.2 and 18.3 below).

16. Planning Applications

18.1 All planning applications are determined either under delegated powers by officers or by the Planning Committee.

18.2 Planning applications are designated by statutory classes set out by regulation and these fall into three main categories:

- Major applications
- minor applications
- householders and others (these include listed building consent and advertisement consent applications)

Major development

- 10+ dwellings/over half a hectare/buildings exceeding 1000 sq. metres
- Office/light industrial – 1000+ sq. metres/1+ hectare
- Retail – 1000+ sq. metres/ 1+ hectare
- Gypsy/traveller site – 10+ pitches
- Site area exceeding 1 hectare

Minor development

- 1-9 dwellings (unless floor space exceeds 1000 sq. metres or the site area exceeds half a hectare)
- Office /light industrial - up to 999 sq. metres/under 1 hectare
- General industrial – up to 999 sq. metres/under 1 hectare
- Retail – up to 999 sq. metres/ under 1 hectare
- Gypsy/traveller site – 0-9 pitches

18.3 Planning applications are referred to the Planning Committee in the following cases:

- where the number of representations contrary to the officers' recommendation received triggers the public speaking requirements at Planning Committee (as set out in Public Speaking Procedure Rules in the Council's Constitution):
 - for all householder and other applications: 10 representations
 - for all Major and Minor applications: 20 representations;
- all major applications submitted by Guildford Borough Council;
- when a councillor or a Council employee has submitted an application, or when the applicant is related to a councillor or council employee;

- when a Joint Strategic Director asks the Committee to decide; or
- when a councillor refers an item to planning committee for planning reasons.

18.4 Councillors are notified of all planning applications within their wards via the weekly lists. Councillors' comments received will be taken into account in determining the application; however, councillors who are members (or substitute members) of the Planning Committee should not provide a clear opinion either way at this stage as it could prejudice their ability to vote on the matter should it come before the Committee. At any point prior to the Committee meeting, should councillors wish to give an opinion, they are advised to state that this is their opinion based upon the information currently available, which may change in the light of additional information. Councillor comments are kept on file.

18.5 Under the Council's Constitution, there is the ability to refer planning applications to full Council for consideration. In those circumstances, this code of practice would equally apply to consideration of such applications by all councillors (see Council Procedure Rule 26 (c)).

18.6 In addition to planning applications, the Council also deals with other types of applications which are not subject to referral to Planning Committee as they deal with matters of fact rather than planning policies and/or are subject to determination deadlines which can result in 'deemed' consent being granted. These include:

- certificates of lawful development/use (existing and proposed)
- applications for prior approval or prior notification

17. Councillor 'call-up' to Planning Committee (see Annex 3)

19.1 Councillors should use call up powers responsibly. There are likely to be many applications where Councillors may disagree with part of the recommendation. However, applications should only be referred to Planning Committee where there are strong planning grounds to do so. Referrals should not take place because an alternative development would be preferred or because of prior conduct of the applicant (including because the application is retrospective). By getting involved at an early stage, councillors can have their opinions and suggestions considered by officers and there is the opportunity for discussion.

19.2 The process for councillors to refer applications to the Planning Committee is set out in **Annex 3**.

19.3 Exclusions to this process are all Lawful Development Certificate applications; Prior Approval applications; Section 211 notifications (Trees in Conservation Areas), and Statutory Consultations from other authorities including Surrey County Council.

19.4 The officer report is confidential until it is published on the Planning Committee agenda, if it is referred to Committee, or until the application is determined under delegated powers, and must not be shared or forwarded to the applicant, agent, Parish Council, or third parties before this.

19.5 If, in the opinion of the Joint Executive Head of Planning Development and/or the relevant Joint Strategic Director, a call up request is not based on planning grounds

then the request can be refused; however, officers will always explain their reason to the relevant Councillor.

- 19.6 Councillors who have exercised call-up will normally be expected to speak to the item when it is considered by the Planning Committee provided that, in the case of Planning Committee members, they have not demonstrated a predetermination.

20. Site Visits by Planning Committee members

- 20.1 Committee site visits may be conducted either before the meeting of the Planning Committee at which the application is to be determined following a request by a councillor, or the Committee may decide at the meeting to conduct a site visit. However, there may be circumstances where the Joint Executive Head of Planning Development considers the application to be of sufficient scale/importance that a site visit should be arranged irrespective of any request by Councillors. All formal site visits should follow the provisions of the Site Visit Protocol set out below.

Pre-Committee meeting Site Visits requested by a councillor

- 20.2. Pre-Committee meeting Site Visits assist with the debate at the meeting and avoid further delay to the determination of the application. Such site visits may be initiated on request by a councillor:
- when making a call up request, or
 - following the publication of the Committee agenda by detailing their request to the Democratic Services Officer by no later than midday on the Thursday of the week prior to the Planning Committee meeting.
- 20.3 The request for a site visit is discussed in liaison with the Chairman of the Planning Committee and Joint Executive Head of Planning Development at the Chairman's Briefing (which is generally held in the afternoon on the Thursday prior to the Planning Committee meeting). If the Chairman and Joint Executive Head of Planning Development agree the request for a site visit, the Democratic Services Officer will confirm the site visit details with the Planning Committee members and the applicant.
- 20.4 Pre-Committee meeting site visits are scheduled to be held on the Tuesday, the day before the Planning Committee meeting commencing at approximately 9:30am.

Site Visits agreed by the Committee

- 20.5 Site visits can also be requested at a Planning Committee meeting. Reasons should be given as to why a Pre-Committee meeting site visit was not requested. Councillors must be mindful of the delay such a deferral will cause to the application and the implications, including possible appeal against non-determination. If the request is supported by the Committee, the application will stand deferred to enable a site visit to be scheduled at an agreed date and time. The Democratic Services Officer will confirm the site visit details with the Planning Committee members and the applicant.
- 20.6 The Committee minutes will show the planning reasons for the decision to hold a site visit.

Site visit protocol

- 20.7 In all cases site visits should only be held in circumstances in which it is not possible for councillors to make an informed decision on the application without seeing the site for themselves. Examples of such circumstances include:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
 - the comments of the applicant and objectors cannot be expressed adequately in writing
- 20.8 Site visits are generally not appropriate in cases where purely policy matters are at issue.
- 20.9 A planning officer and the Democratic Services Officer will attend all formal site visits.
- 20.10 Site visits are:
- fact finding exercises.
 - not part of the formal consideration of the application and, therefore, public rights of attendance and speaking by applicants and objectors do not apply.
 - to enable officers to point out relevant features.
 - to enable councillors to ask questions on site for clarification. However, discussion on the merits of the application will only take place at the Planning Committee meeting when all parties will be present.
- 20.11 Councillors should not allow themselves to be addressed by individual parties, members of the public or applicants at formal site visits.
- 20.12 The Chairman of the Committee or, in their absence, the Vice-Chairman must maintain control over the conduct of the site visit which, whilst not part of a formal meeting of the Planning Committee, must be conducted as a single meeting and in an orderly fashion.
- 20.13 Planning Committee members who are unable to attend a formal site visit may, if they wish, visit the site informally but should be mindful of the provisions of the Site Visit protocol. Any councillor who may visit the site alone is only entitled to view the site from public vantage points and has no individual rights to enter private property. If alone, it is not good practice to enter the site if invited by the owner, as this can lead to the perception that the councillor may no longer be impartial.

21. Planning Committee

- 21.1 The Planning Committee is made up of 15 borough councillors. A number of other councillors are named as substitute members of the Committee.
- 21.2 Planning Committee meetings are held in the Council Chamber, and usually take place every four weeks on a Wednesday evening beginning at 7pm. Sometimes there are special meetings to discuss major or strategic applications.

- 21.3 Agendas are published on the Council's website five clear working days before each meeting.
- 21.4 Any member of the public can attend Planning Committee meetings and listen to the discussions about applications and other matters on the public part of the meeting agenda.
- 21.5 The Planning Committee makes decisions on about 5% of the planning applications the Council receives. The Joint Executive Head of Planning Development decides all other applications under delegated powers.
- 21.6 All meetings are open to the public (s100 Local Government Act 1972). Where there are aspects of a matter which are required to be dealt with in private, the Committee may pass a resolution to exclude the public from the meeting (s100A(4) LGA 1972). That resolution must identify the matters to which it refers and state the description of the "Exempt Information" under the relevant paragraph(s) of Part 1 of Schedule 12A to the LGA 1972.
- 21.7 Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm. Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Committee.

Procedures for dealing with planning applications at Planning Committee

- 21.8 Councillors (who are not Planning Committee members) who wish to speak on a planning application on the agenda, whether the site is inside or outside of their ward, may do so with the consent of the Chairman of the Committee. They must register their wish to speak with the Democratic Services Officer by midday on the day prior to the Planning meeting and, if speaking in that capacity, cannot attend the meeting as a substitute.
- 21.9 Committee members wishing to speak for or against an application may for that item step away from the committee and speak from the seat allocated to ward councillors when they address the Committee but shall not be entitled to speak for more than three minutes. They shall then leave the chamber until the conclusion of that item. No substitute shall be allowed for that item.
- 21.10 Each speaker, including councillors or members of the public, may address the Planning Committee for a maximum of three minutes. In exceptional circumstances, the chairman can agree to speakers having longer than three minutes to address an item. An example of this would be a strategic site with multiple and complex issues.
- 21.11 Under Council Procedure Rules, the Chairman has the right to decline to hear anyone behaving improperly at the meeting.
- 21.12 No additional written evidence or information such as photographs, plans or models may be circulated at the meeting.
- 21.13 The procedure to be adopted in circumstances where the Committee wish to overturn the officer's recommendation is contained in **Annex 4**.

- 21.14 Officers might occasionally defer an application following publication of the agenda.
- 21.15 The Planning Committee might defer an application at the meeting. A motion may be proposed and seconded at any time during the debate to defer or adjourn consideration of an application. The Committee will do this if they run out of time to discuss it fully, if members feel additional information is required, or if they would like to make a formal committee site visit. In most situations, they will not defer an application until all speakers have spoken about it at a meeting.
- 21.16 If the Committee defers an application, and there has already been public speaking on this item at a meeting, there will be no further public speaking on it when it is discussed again by the Committee. However, the comments of speakers from the first meeting will be fully summarised in the updated report.
- 21.17 Councillors, objectors, the applicant and (where relevant) parish councils will be notified when an application is coming back to the Planning Committee following deferral.

22. Councillor behaviour in committee meetings

- 22.1 Councillors and officers will afford courtesy and respect to one another, and to all of those attending committee meetings and/or making representations.
- 22.2 Councillors will not pass notes in any format between themselves or others during the meeting.
- 22.3 Committee members and substitute members will not deliver pre-prepared speeches in support of, or in opposition to, any application giving the impression that they have pre-determined their decision.
- 22.4 It is considered acceptable for Committee members and substitute members to have prepared bullet points for any contributions they may make in advance of a meeting.

23. Webcasting

- 23.1 All Planning Committee meetings will be webcast. Webcasts of meetings will be suspended in circumstances where the Committee considers confidential or exempt information during the consideration of any matter.

24. Reports containing confidential or exempt information

- 24.1 Reports or sections of reports published on pink paper marked "Restricted" will be subject to confidentiality and may not be viewed or shared with any other person outside of the Council.
- 24.2 On occasion, owing to the sensitivity of a matter, the confidential item will only be handed out in hard copy at the meeting itself. Councillors will be given sufficient time to read through the report prior to debating the item and coming to a conclusion.

24.3 Councillors must ensure that their private papers are handed back to the Democratic Services Officer at the end of the consideration of that item. This is essential so that the papers can be confidentially shredded.

25. Public Speaking at Planning Committee (see Annex 5)

25.1 The Guide to Planning Committee Meetings, which deals with public speaking at Planning Committee Meetings, is attached as **Annex 5**.

26. Councillor representations on appeals against planning decisions

26.1 Where a councillor wishes to support an appellant on any appeal against a Council decision on a planning matter, that councillor shall give written notice of his or her intention to the Monitoring Officer and Executive Head of Service, as well as the appellant. Where the appeal is to be dealt with at an inquiry, the written notice shall be delivered not less than five working days before the start of the inquiry.

26.2 Councillors proposing to support an appellant at an appeal must in addition make it clear to the planning inspector that they are appearing in their personal capacity and not as a spokesperson for the Council.

Annex 1: Councillor interests

Disclosable Pecuniary Interests include business, trade, profession, contract and wider financial interests such as land, payments, securities, shares etc.

If a spouse or civil partner has interests which would be considered Disclosable Pecuniary Interests then these must also be registered under the councillor's name

Enter Personal Interests into the Register
Also include those Pecuniary Interests that need to be disclosed

Councillor is a member of the Planning Committee

Councillor has a Disclosable Pecuniary Interest which relates to an item at the Planning Committee

Councillor has a personal interest which relates to an item at the Planning Committee

Councillor cannot participate (either as a councillor or member of the public) in the discussion or take part in any vote

Councillor must decide if this interest is likely to be seen as prejudicing their impartiality or ability to meet the principles of public life

Councillor has a Disclosable Pecuniary Interest which relates to an item at the Planning Committee

Note:
This flowchart is for illustration purposes only
It is a criminal offence not to follow the rules on Disclosable Pecuniary Interests
If in doubt, a councillor should always consult the Council's Monitoring Officer

The councillor is free to take part in the debate and any subsequent vote on the item in question

The councillor must leave the room.

YES

NO

Annex 2: Protocol for informal presentations to councillors relating to development

A protocol to clarify the role of third-party informal presentations to the Council and to provide guidance to third parties and councillors on attending such informal presentations that **do not form part of any formal planning application, and which do not fall within the formal Application process and Pre-Application process.**

In the event of conflict between this protocol and the Councillor Code of Conduct or the Councillors' Handbook, (**the Codes**) the Code/Handbook shall take precedence.

PROTOCOL

Scope

1. This protocol covers any request made by a third party to make an **informal presentation** to councillors. A third party may also include the Council when acting as a developer, and/or landowner.
2. This Protocol seeks to establish clear guidance to third parties and the Council in respect of requests for and the presentation of third-party informal presentations to councillors, and to promote an environment of openness and transparency.

Informal Presentation Request

3. A request by a third party to make an informal presentation of information shall be made in writing to the relevant director setting out the reason(s) for the proposed presentation, the subject matter, and any other relevant information.
4. The director may agree or refuse the request or may agree to elements of the proposed presentation. Alternatively, the director may refer the request to the Executive or lead councillor (as appropriate to the proposal) together with any advice from the Monitoring Officer, to agree or to refuse the request or to agree to elements of it.

Refusal of Request

5. When a request is refused, the relevant director taking that decision will set out the reasons for the refusal, and provide the decision and reasons to the third party

Acceptance of Request

6. The relevant director shall provide a copy of this protocol to the third party with the decision that the informal presentation may proceed.

The Presentation

7. When a request is agreed the informal presentation shall proceed in accordance with the following rules:

The third party

- 7.1 The third party will:
 - a. arrange the platform/venue and time of the meeting, at no cost to the Council. The date and time to be agreed by the relevant director. Presentations will, generally, be convened in the evening and recorded wherever possible for those councillors that are unable to attend.
 - b. provide any presentation materials to the relevant director at least **5 working days** in advance

- c. invite all councillors via email: councillors@guildford.gov.uk
- d. keep a record of attendance at the presentation.
- e. ensure notes of what is said at the presentation are taken and circulated to the relevant director for comment within 5 days of the presentation and once agreed will share them with all councillors.
- f. ensure that the presentation is for information purposes only and will not lobby any councillor(s) for support.

The Council

7.2 The Council will:

- a. distribute any presentation materials to Councillors at least **2 working days** in advance of the informal presentation.
- b. ensure that at least one planning officer and one senior officer, from the Joint Management Team, shall be present during the informal presentation.
- c. ensure that no councillor will be involved in making a presentation as a representative of the third party or otherwise.
- d. require all councillors to disclose any interests in the matter, in accordance with the Councillors' Code of Conduct, before the presentation starts, and all disclosures made will be recorded as part of the notes referred to in (7.1 (e)) above.

All parties

7.3 All Parties will:

- a. ensure that all those present understand that the presentation does not form part of the Council's decision-making process and that the process of debate and determination of any matter arising will be undertaken in accordance with the Council's normal procedures.
- b. ensure that those present understand that Councillors may ask questions for clarification purposes. Should any view(s) be expressed by any councillor(s) at the informal presentation, it will not bind them, nor the Council, to any decision in respect of any subsequent planning application that may be submitted in respect of the development proposal.

This Protocol is to be reviewed on or before two years of the date of its adoption.

Annex 3: Process for Councillor ‘call-up’ to Planning Committee

Applications to be included in this process:

- All planning applications, including S.73 applications
- Listed building consent applications
- Advertisement consent applications
- Tree Work Applications for trees subject to a TPO

Applications excluded from this process:

- Lawful Development Certificate applications
- Prior approval applications
- Section 211 notifications (Trees in Conservation Areas)
- Consultations from other authorities

Process

Upon validation of relevant applications, they will be included on the weekly list of planning applications. Councillors will have 21 days from the date of publication of the weekly list to submit a committee referral.

Councillors will be requested to make one of the following responses:

- No comments
- I have concerns/see potential benefits (these must be planning considerations, directly related to the applications) and would like the application referred to committee. Please indicate planning concerns/benefits:.....
.....
- I consider that due to the specific circumstances/scale of the development it will have wide ranging planning implications and I would like the application referred to committee. Please specify the nature of the wide-ranging implications:.....
.....
- I do not wish to refer the application to Committee, but I would like the following comments/suggestions for conditions taken into consideration:
.....
.....

Where there is more than one Councillor representing a ward, all the ward councillors are able to comment.

Response to be sent via email directly to the case officer and copied to PlanningEnquiries@guildford.gov.uk to ensure that it is recorded on the file and not missed due to officer absence. The request will be detailed in the officer’s report.

Where comments are raised that are NOT material planning considerations the case officer will advise the Councillor of this before drafting the report.

Determination/referral to Committee

The referral of the application MUST have regard to the Councillor(s) response and the following scenarios may occur:

- Where “No comments” are specified; or where no councillor response is received, the application will proceed under delegated powers. No further councillor contact required.
- Where a Councillor has made a comment the case officer will include it in the delegated report and notify the Councillor.
- Where the Councillor response is a request to refer to Committee. Their request will be referred to in the committee report. Should the application be amended, the officer will notify the Councillor to see whether their request stands.

All requests for referral to Planning Committee will be subject to ratification by the Chairman of the Planning Committee and Executive Head of Service (or Strategic Director). The draft agenda will be shared with the Chairman who can comment at that point on any of the Member referrals.

Note – these referral measures do NOT affect the automatic thresholds for Committee referrals i.e. number of representation letters received.

Reporting

Management information should be produced to facilitate reviews of the process. Subject to system constraints, the following information should be produced every 12 months and should include a comparison with the previous 12 months:

- Number of applications decided in the period
- Number and percentage of applications referred to the committee
- Number and percentage of referrals overturned by the committee
- Number and percentage of overturns upheld at appeal

Implementation

The new process will require changes to functionality of the current planning IT system. However, the new process will be implemented as soon as possible

Reviewing

A review of this process shall be carried out after the first 12 months of operation following its adoption, or sooner if sufficient cause is identified by the Executive Head of Service following consultation with the Chairman and Vice Chairman of the Planning Committee. Any such review should seek views from officers and Councillors over the operation of this

process. It should also look at the management information and compare with the previous system.

It is intended that this should offer a flexible framework and be adaptable. If issues arise which do not fundamentally alter the concept, then these operational changes should be put in place to allow for efficient working.

Longer term reviews of delegated processes should be undertaken at least every 24 months, led by the Executive Head of Service, in consultation with the Chairman of the Planning Committee. Officers should also seek the views of members during such a review.

DRAFT

Annex 4: Procedure for councillors overturning officer recommendations at the Planning Committee

If, during the debate on an application, it is apparent that Committee members do not support the officer's recommendation, the Chairman shall ask if any Committee member wishes to propose a motion contrary to the officer's recommendation, subject to the proviso that the rationale behind any such motion is based on material planning considerations. Any such motion must be seconded by another Committee member.

- Where such a motion proposes a refusal, the proposer of the motion shall be expected to state the harm the proposed development would cause in planning terms, together with the relevant planning policy(ies), where possible, as the basis for the reasons for refusal. In advance of the vote, the Chairman shall discuss with the relevant officers, the proposed reason(s) put forward to ensure that they are sufficiently precise, state the harm that would be caused, and refer to the relevant policy(ies) to justify the motion. The Committee shall take a separate vote on each proposed reason for refusal, following which the Committee shall take a vote on the motion to refuse the application based on all of the agreed reasons.
- Where such a motion proposes approval, the proposer of the motion shall be expected to state why the proposed development would be acceptable in planning terms, together with the relevant planning policy(ies), where possible. In advance of the vote, the Chairman shall discuss with the relevant officers the proposed reason(s) put forward to ensure that the planning reason for approval is sufficiently precise to justify the motion. In addition, the Committee shall discuss and agree the substance of the planning conditions necessary to grant a permission before taking a vote on the motion to approve.
- Where such a motion proposes deferral, (for example for further information/ advice) the Committee shall discuss and agree the reason(s) for deferring the application, before taking a vote on the motion to defer.

If the motion is not seconded, or if it is not carried, the Chairman will determine whether there is an alternative motion and, if there is not, the Chairman will move the officer's recommendation and ask another Committee member to second the motion. That motion will then be put to the vote.

Annex 5: Speaking at Planning Committee



GUILDFORD
BOROUGH

Guide to Planning Committee meetings



A guide for anyone who would like to:

- **know** how the committee process works;
- **attend** a Planning Committee meeting; or
- **speak** about an application at a Planning Committee meeting.

www.guildford.gov.uk

Introducing this guide

This guide explains what you need to know if you want to speak at or attend a Planning Committee meeting. You will find this guide useful if you:

- have applied for planning permission and your application is being considered by the committee;
- are the neighbour of someone whose planning application is being considered by the committee; or
- are interested in planning and how the Planning Committee makes decisions.

Attending a Planning Committee meeting

Where do Planning Committee meetings take place?

Our Planning Committee meetings are held in the Council Chamber, which is in the civic suite of Millmead House. The public entrance to the Council Chamber is signposted in the front car park at Millmead House.

Accessibility at Planning Committee Meetings

Planning Committee meetings are held in the Council Chamber which is accessed from the main reception up one flight of stairs. The main reception can be accessed via a disability ramp. The Council Chamber is accessible via a wheelchair accessible lift.

A hearing loop is also installed in the Council Chamber for those who are hard of hearing and use hearing aids. Please note that your hearing aid should be set to 'T'.

How often does the Planning Committee meet?

Planning Committee meetings normally take place every four weeks. Meetings normally are on Wednesday evenings and start at 7pm. Occasionally, there are special meetings to discuss major or strategic planning applications.

For a list of meeting dates please view our website at the following address:

<https://www.guildford.gov.uk/council>

Who can attend a Planning Committee meeting?

Any member of the public can attend our Planning Committee meetings and listen to the discussions about items on the public part of the meeting agenda.

In certain situations, you can speak at a committee meeting about a planning application you're interested in. If you would like to speak, you will need to arrange this with us before the meeting.

More information about speaking at Planning Committee meetings is given below.

There may be times when the Planning Committee needs to discuss confidential matters that are not on the public part of the agenda. Where this is necessary, the Chairman

will explain this at the meeting, and you will be asked to leave at the point at which the Committee decides to formally exclude the public from the meeting.

The public seating area is at the back of the Council Chamber, next to the public entrance. A layout plan of the Council Chamber is given on the back page of this guide showing the public seating area and where councillors and officers sit.

What does the Planning Committee do?

Our Planning Committee makes decisions on about 5% of the planning applications we receive. All other applications are decided by the Joint Executive Head of Planning Development under delegated powers.

The Planning Committee will make a decision on applications:

- for all householder and other applications, the trigger for Committee will be receipt of 10 letters/emails or more contrary to the officer's recommendation;
- for all Major and Minor applications, the trigger for Committee will be receipt of 20 letters/emails or more contrary to the officer's recommendation;
- that are major applications submitted by Guildford Borough Council;
- that a councillor or a council employee has made, or when the applicant is related to a councillor or council employee;
- that the Joint Executive Head of Planning Development asks the Committee to decide; or
- that a councillor asks the Committee to decide for planning reasons.

The agenda contains reports compiled by officers, which will include the recommendation along with any conditions or reasons for refusal. The reports are available for Members of the Committee to review prior to the meeting, along with the relevant plans and other information within the file.

Agendas are published five working days before each meeting. The agenda can be viewed on our website: [Browse meetings - Planning Committee - Guildford Borough Council](https://democracy.guildford.gov.uk/ieListMeetings.aspx?Committeed=130)
<https://democracy.guildford.gov.uk/ieListMeetings.aspx?Committeed=130>

Officers will carry out a brief presentation for each item, which may include relevant plans of the development and photographs of the site.

Who is on the committee?

The Planning Committee is made up of 15 borough councillors. A number of other councillors are named as substitute members of the Committee.

Contact details of the members of the Planning Committee can be viewed on our website: [Contact details - Planning Committee - Guildford Borough Council](https://democracy.guildford.gov.uk/mgCommitteeMailingList.aspx?ID=130)
<https://democracy.guildford.gov.uk/mgCommitteeMailingList.aspx?ID=130>

Webcasting Arrangements

Planning Committee meetings are recorded for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

If you have any queries regarding the webcasting of meetings, please contact Committee Services by email on: committeeservices@guildford.gov.uk

The Public's Responsibilities

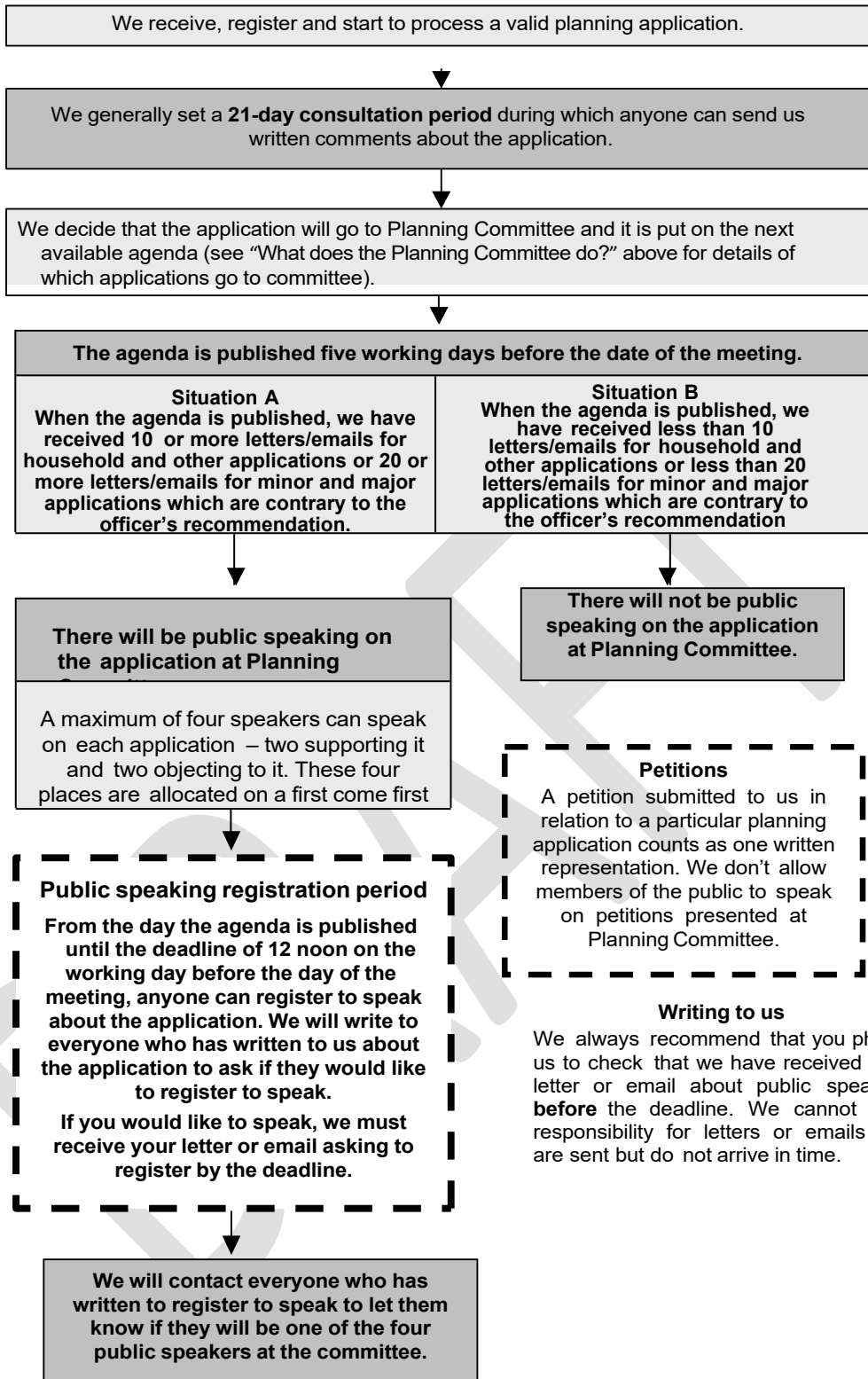
Members of the public must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. Subject to available space, the public are entitled to attend public meetings of the Planning Committee but must comply with the ruling of the Chairman. They may not disrupt the meeting or cause undue disturbance, or they may be removed from the meeting. The display of banners or placards is not permitted in the Council Chamber or anywhere on the Council premises.

Speaking at Planning Committee meetings

The diagram on the following page explains the process for deciding whether public speaking will take place on a planning application being presented to the Planning Committee.

DRAFT

Agenda item number: 5
Appendix 2



Registering to speak

If you would like to register to speak on a public speaking item, registration starts on the day the agenda is published, which is five clear working days prior to the meeting. For example, planning committee meetings are normally held on a Wednesday, therefore the agenda is published on the Tuesday the week before. You must write to us or email us by **12 noon on the working day before the day of the meeting**. You must send your email or letter to:

Democratic Services Officer for the Planning Committee
Guildford Borough Council
Millmead House
Millmead
GUILDFORD
Surrey GU2 4BB

Email: committeeservices@guildford.gov.uk

Tel: 01483 444056

Your letter or email must contain:

- Your name
- Your address
- Your daytime phone number
- The planning application number
- The name of the development
- Whether you want to speak to support or object to the application

If I write to you about an application, do I have to speak at a meeting?

No, you don't. If we receive a letter or email from you within the 21-day consultation period for the application, we will include a summary of your comments in the Planning Officer's report.

If we receive your letter or email **after the agenda is published but before noon on the working day before the day of the meeting**, the Democratic Services Officer will include a summary of your comments in a document known as the 'Late Sheet'. This is given to councillors and the public at the meeting.

How many people can speak about each application?

Up to **four** people can speak about an application.

- Two speakers who **object** to the application.
- Two speakers who **support** the application.

As there can be no more than four speakers, we will only invite the first two people who write to us objecting to an application, and the first two people who write to us supporting an application to speak at the meeting.

A person can speak to the committee on behalf of others who support or object to an application. If we have written to tell you that you can speak at a meeting, we may pass your details to others who object to or support the application so that they can contact you. If you would prefer us not to pass your details on to others, please let us know.

How long can I speak for?

Each speaker has three minutes to speak. The Chairman will let you know when your three minutes are almost finished. You must make sure you cover all of your points in those three minutes. You cannot ask councillors, officers or other speakers any questions.

You are not allowed to use any presentation equipment when you speak at the meeting. For example, you cannot give a computer presentation or use an overhead projector or a slide projector.

Can I hand out information at the meeting?

No, you cannot hand out any documents (such as plans and photographs) at the meeting and you cannot display any models. If you wish to send in additional documentation, or information, you must do this in advance of the meeting and by no later than 12 noon on the working day before the meeting. This must be sent, preferably by email, to the Democratic Services Officer: committeeservices@guildford.gov.uk

If I am speaking at a meeting, when should I arrive?

You should arrive in the Council Chamber by 6.45pm. The Democratic Services Officer will introduce themselves and note your attendance.

What will happen at the meeting?

- Everyone who attends the meeting will be given a list of people who have registered to speak at the meeting.
- The committee will first consider the applications for which there is public speaking, in the order on the list of speakers.
- When the Chairman announces the name and number of the application you are interested in a planning officer will give a presentation on it.
- The Chairman will call each of the speakers in turn to go to the public speaking desk at the front of the Council Chamber to have their say.
- When you have finished your speech, you will be asked to return to your seat in the public seating area.
- When all the speakers have been heard, the committee will discuss the application. The public cannot take part in the discussion.
- The committee will make a decision on the application.

If you have registered to speak and you arrive late or don't turn up to the meeting, the committee will still make a decision on the application.

What happens if the Committee put off making a decision on an application until a future committee meeting?

The Planning Committee might sometimes decide to put off making a decision on an application. This is known as 'deferring an application'. They will do this if they run out

of time to discuss it fully, if members feel additional information is required, or if they would like to make a formal committee site visit. In most situations, they will not defer an application until all speakers have spoken about it at a meeting.

If the committee defers an application, and there has already been public speaking on this item at a meeting, there will be **no further public speaking** on it when it is discussed again at committee.

What issues should I speak about?

The Planning Committee can only take into consideration 'planning' issues relevant to the proposed development and cannot consider any other matters in its decision making. Therefore, when you are speaking to the Planning Committee you should focus only on Development Plan (local plan and neighbourhood plan) policies and other material planning considerations relevant to the Planning application that is being decided.

What are 'material planning considerations' and how are they determined?

Material considerations are decided by statements of national Government policy or by decisions of the courts. The following are examples of material planning considerations:

- Development Plan (local plan and neighbourhood plan) policies
- National Planning Policy Framework and other Government planning policy
- Overlooking / loss privacy
- Loss of light / overshadowing
- Effect on listed building
- Layout, density
- Design, materials
- Previous decisions/appeals
- Natural environment
- Flood risk
- Parking
- Highway safety
- Traffic
- Noise
- Disabled access

The following are examples of what are **not** material planning considerations:

- House prices and house insurance
- Personal circumstances
- The applicant - characteristics and conduct
- The strength or volume of opposition / objection
- Loss of a *private* view
- Damage to property or Party Wall Act matters
- Loss of trade
- Boundary disputes or covenants

In making its decision the Committee must take into account the officer's report.

The Committee cannot give weight to non-planning consideration in making a planning decision. The weight that should be attached to each material planning consideration in any particular case is for the Committee to determine as decision maker.

At the meeting

1. Please keep your speech to the subject of the application and material planning considerations. The Chairman will stop you speaking if you deviate from planning issues
2. Please do not make statements of a personal or slanderous nature or be abusive
3. During your speech, you are not permitted to refer to the conduct of officers or councillors or to the manner in which an application has been dealt with. The Council has a separate Complaints Procedure in place to deal with these issues
4. You are also not permitted to make personal comments about individual applicants, objectors, supporters or others involved in an application.
5. Do not interrupt other speakers, or the Committee during the debate
6. The Chairman of the Planning Committee has sole discretion on whether a person can speak or not and retains overall responsibility for the smooth running of the meeting. The Chairman's decision on procedural matters is final and must be adhered to.

If you would like more advice on what is a planning issue, please email planningenquiries@guildford.gov.uk or phone planning enquiries on 01483 444609.

For more information about committee meetings and speaking at a Planning Committee meeting, please contact the Democratic Services Officer for the Planning Committee, by emailing committeeservices@guildford.gov.uk, or by phone on 01483 444056.

The Council Chamber layout for a Planning Committee meeting

		Senior Solicitor	Democratic Services Officer	Chairman	Planning Development Manager	Planning Officer		
--	--	------------------	-----------------------------	----------	------------------------------	------------------	--	--

Public Speaker												NPCMS
Cllr												Cllr
Cllr												Cllr
	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr	Cllr		

Cllr: Planning Committee Member
NPCMS: Non-Planning Committee member speaker

Committee Room 1 public seating
Any other councillors who attend the meeting will sit here

Please contact us to request this document in an alternative format



This page is intentionally left blank

Draft Minute
Corporate Governance & Standards Committee – 19 January 2023

**Review of Probity in Planning Local Code of Practice –
Handbook for Councillors and Officers**

The Committee noted that the Council had last reviewed the Probity in Planning - Local Code of Practice Handbook in April 2019. The Handbook formed part of the Council's Constitution and provided guidance for councillors and officers on their role and conduct in the planning process. The guidance included how councillors and officers should manage contact with applicants, developers and objectors or supporters. The purpose of the guidance provided in the document was to ensure that decisions made in the planning process were not biased, were taken openly and transparently, and based only on material planning considerations.

As part of its ongoing work reviewing various aspects of the corporate governance of the Council, the Corporate Governance Task Group appointed by this Committee had conducted a thorough review of the Handbook.

The draft revised Handbook, as recommended by the Task Group, was attached as Appendix 2 to the report submitted to the Committee.

Each part of the Handbook had been carefully reviewed to ensure that the document reflected the law, and current best practice. The Committee's attention was drawn to a separate review of the Planning Committee, which had been undertaken by an Executive working group, which examined a number of recommendations by the LGA /PAS Peer Review. Two of the recommendations had been the subject of discussion by both the working group and the Corporate Governance Task Group, namely the call-up process for referral of applications to Planning Committee by councillors, and the process for overturning officer recommendations on applications at Planning Committee meetings. There had been differences of opinion expressed on both these matters by members of both groups.

The Lead Councillor for Planning Development, Legal and Democratic Services commented that the proposed changes to the Member referral process would replace the current seven-day notice procedure. A more collaborative, and **constructive**, less sequential approach was proposed in which all ward members would have the opportunity to express concerns about specific applications and, where necessary, call-up the application for determination by the Planning Committee at the beginning, rather than at the end, of the 8-week determination period. The need for the change had been highlighted as a key recommendation of the Peer Review to help the Council accelerate the processing of planning applications and improve the Council's performance in determining non-major applications within the statutory 8-week period. **The Lead Councillor commented that the current procedure was inefficient and not widely used in other Local Planning Authorities.** It was noted that there was a very real possibility of the Council being designated by the Secretary of State for failure to adequately perform its function in determining non-major applications.

In considering the report and the draft revised Handbook, the Committee made the following comments and suggestions:

Proposed Call-up process:

- Councillors have always had the opportunity of discussing particular applications with officers where it was felt that issues needed to be brought to their attention. Concern that the proposed new process would not enable councillors to see the officer's report on an application before it was determined, and not having at that point the option of call-up to Committee, which would create a huge burden for councillors.
- The seven-day referral process had been in place for many years, including times when the Council was performing well in determining applications. The current poor performance cannot therefore be due to the seven-day referral process. In response, the Executive Head of Planning Development noted that there were a number of factors that had contributed towards the current situation in respect of the performance of the planning department, including an increase in the number of applications and the very severe staffing situation which officers were endeavouring to address. In addition, officers were looking at improving other processes and procedures to demonstrate to the Government that the Council was putting in place measures to improve the performance of the planning service in Guildford.
- In response to concerns that some councillors were not receiving the weekly notification of planning applications, and that Ash Parish Council had been asked to consider planning applications that had already been determined by officers, the Executive Head of Planning Development would investigate these matters.
- The Task Group had discussed extending the proposed period to allow a councillor to call-up an application to Committee from 21 to 25 or 28 days. Other councils' referral processes permitted councillors to call-up an application at the point at which the public/neighbour consultation has expired. If a Ward Councillor was limited to 21 days, they would not have enough time to see the comments from the public and to understand the facts about the application to enable them to consider a call-up to Committee.
- In response to a request for evidence of the number of applications that had been referred to Committee under the seven-day referral process, the Executive Head of Planning Development confirmed that of the 700 applications that councillors responded to under the seven-day referral process (in 2020), 15 had been referred to Committee at the request of councillors, and of those, seven had been overturned by the Committee.
- In response to concerns over the perceived short time period proposed for councillors to request a call-up, officers clarified that, under the proposed new referral process, councillors would have 21 days from the date of the weekly list, not from the date of validation, to submit a committee referral.
- Concerns were raised that some neighbours of adjoining properties were saying they had not received consultation notices so had no opportunity to comment on an application.
- If other changes were required to make the planning application process more efficient or effective, particularly in terms of ensuring that the public were aware of applications, these should be addressed as part of a wider review of the processes followed by the Planning Department. The Executive Head of

Planning Development commented that the Council's approach to public consultation on planning applications followed the statutory requirements. Officers were requested to keep details of notifications sent, to enable councillors to demonstrate this.

Given the contentious nature of the proposed change in the Councillor Call-up Process, as set out in Annex 3 of the draft revised Handbook, the Committee took a vote on whether it should support the proposed change. As there was an equality of votes and given that full Council would make the final decision on the change, the Committee felt that the balance of views should be reflected in its comments that would be passed, first to the Planning Committee at its special meeting on 7 February and, then to full Council at its extraordinary meeting on 22 February.

General:

- Request for a tracked changed version of the document so councillors can see the changes that were being proposed to the Handbook, together with a summary of the key changes.

Members' Interests

- Suggestion that examples of non-pecuniary interests be included in section 10 of the Handbook.

Member overturn process at the Planning Committee

- Concern that the proposed revised overturn process would require councillors to cite relevant planning policies in support of a motion to refuse an application contrary to officer recommendation, and possibly to have pre-determined themselves if they had prepared reasons for refusal and relevant policies in support of a motion to that effect in advance of the meeting. It was suggested that the Handbook should be clear in such circumstances whether a councillor wishing to overturn the officer recommendation should state the harm that the proposed development would cause in planning terms and the relevant policies as the basis to justify a refusal. In response, the Committee was advised that:
 - (a) Planning Committee members were entitled to have concerns about planning applications and to discuss those concerns with officers in advance of a meeting. Pre-determination would only arise where the councillor attends a meeting having already made up their mind how they were going to vote;
 - (b) relevant policies would be set out in the officer's report, which should assist a councillor seeking to justify an overturn by reference to those policies;
 - (c) the current overturn procedure at Planning Committee, as stated in the notes on the Committee's agenda, required the proposer of a motion to refuse an application contrary to officer recommendation to state the harm that the proposed development would cause, and the relevant policy(ies)

to justify the motion, whereas the proposed procedure was less onerous as the proposer of the motion would still be expected to state the harm, and provide the relevant planning policy(ies), “*where possible*”.

The Committee took a vote on whether it should support the revised procedure for councillors overturning officer recommendations at the Planning Committee, as set out in Annex 4 of the draft revised Handbook, which was carried.

Corporate duty to maintain division between promoter of development/ decision makers

- Whilst the Handbook sets out detailed rules for individual councillors having conversations with potential applicants or planning officers, and the need to keep notes of meetings etc., there was concern that there did not appear to be anything in the Handbook that applied similar rules in circumstances where the Council might be involved in the development of a planning application, not as a planning authority, but as a corporate entity. It was suggested that either the Handbook could be expanded to include the role of councillors on planning when they were acting in a corporate capacity, for example as a portfolio holder, and the role of the Council as a corporate body in relation to planning matters, or that it be included in a separate protocol or policy document. In response, officers explained that there were specific statutory rules that were applied including the steps to be undertaken to define particular roles to ensure that there was not a conflict of interests, with no person working across both sides. It was therefore suggested that a reference to these rules was included, rather than repeating them in full.

Officer obligations to observe impartiality

- Suggestion that the duty on councillors to act impartially at all times should also apply to officers, and that the requirement for officers to disclose interests where it is considered that those interests might affect their objectivity in respect of a matter, should extend specifically to a requirement that they take no part in any decision on that matter. The Committee was advised that professional codes of conduct applied to officers advising the Planning Committee in addition to the Council’s own Code of Conduct for Staff which required officers to provide impartial advice to councillors and the public. It was suggested that the professional code of conduct of RTPI could be mentioned, although not all planning officers were members of the RTPI.

The Committee

RESOLVED: That the Committee’s conclusions, comments and suggestions in respect of the draft revised Probitry in Planning Handbook, as set out above, be forwarded to, and taken into consideration by, the Planning Committee at its special meeting on 7 February and full Council at its extraordinary meeting on 22 February 2023.