

PROBITY IN PLANNING – COUNCILLORS’ HANDBOOK

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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 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.
- 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 Council Solicitor and 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.
- 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). If a Local Development Plan has been adopted, 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 as to the conduct expected of them on matters relating to planning in the Borough.
- 4.2 Members of the Planning Committee 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.
- 6.2 For those members sitting on the Planning Committee 'bite-sized' 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.
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 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 Council Solicitor and Monitoring Officer (or representative)

9.1 The Council Solicitor and Monitoring Officer will give clear 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 Council Solicitor and 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 Manager (or representative) will also give clear 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 (DPI).

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 with a DPI may not speak on the 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'

Non-pecuniary interest

- 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.
- 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.
- 10.5 It is also important for officers to disclose interests in writing to their service leader/director, if they consider that those interests might affect their objectivity.
- 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 The Council also holds a register of officers' interests, which is not available to the public. The Councillors' Code of Conduct also 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.

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. 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 fetter 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 councillor should not be put in a position where it appears they have already taken a view. The councillor 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.

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 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.

16. Pre-Application Discussions

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.

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.
- 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.
- 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.

18. Planning Applications

- 18.1 All planning applications are determined either by the Planning Committee or delegated to officers.
- 18.2 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 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;
 - 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.
- 18.4 Councillors are notified of all planning applications within their wards. A 21-day consultation period is set during which time anyone can submit written comments about the application.
- 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.
- 18.7 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.
- 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 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 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.

19. 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 those 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.

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. Site Visits

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.
- 21.2 The request for a site visit is discussed in liaison with the Chairman of the Planning Committee and 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 Planning Development Manager agree the request for a site visit, the Committee Officer will confirm the site visit details with the Councillors and applicant.

21.3 Site visits are scheduled to be held on the Tuesday, the day prior to the Planning Committee meeting at approx. 9:30am.

Requested Site Visits

21.4 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.

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

21.6 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.

22. Planning Committee

- 22.1 The Planning Committee is made up of 15 borough councillors. A number of other councillors are named as substitute members of the Committee.
- 22.2 Planning Committee meetings usually take place every four weeks. Meetings are on Wednesday evenings and start at 7pm. Sometimes there are special meetings to discuss major or strategic applications.
- 22.3 Agendas are published on the Council's website five clear working days before each meeting.
- 22.4 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.
- 22.5 The Planning Committee makes decisions on about 5% of the planning applications the Council receives. The Director of Planning and Regeneration decides all other applications under delegated powers.
- 22.6 All meetings are open to the public (s100 LGA 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 Schedule 12A of the LGA 1972.
- 22.7 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.
- 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.
- 22.10 Committee members wishing to speak for or against an application may for that item step away from the committee and speak in the public speaking place, but shall not be entitled to speak for more than three minutes. They shall 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.
- 22.13 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.
- 22.14 Under the procedure rules, the Chairman has the right to decline to hear anyone behaving

improperly at the meeting.

- 22.15 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.
- 22.18 Officers might occasionally defer a committee item following publication of the agenda.
- 22.19 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.
- 22.20 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. However, the comments of speakers from the first meeting will be fully summarised in the updated report.
- 22.21 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. Councillor behaviour in committee meetings

- 23.1 Councillors 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.
- 23.2 Councillors will not pass notes or paperwork between themselves or others attending the meeting.
- 23.3 Councillors will not deliver pre-prepared speeches in support of or in opposition to any application. Pre-prepared speeches can appear as if you have come to the meeting with a pre-determined view.
- 23.4 It is considered acceptable for 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. Webcasting

- 24.1 All Planning Committee meetings will be webcast, 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. Reports containing confidential or exempt information

- 25.1 Reports or sections of reports published on pink paper will be subject to confidentiality and may not be viewed or shared with any other person.
- 25.2 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.
- 25.3 Councillors must ensure that their private papers are handed back to the 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. Public Speaking (see Appendix 3)

- 27.1 The Guide to Planning Committee Meetings, which deals with public speaking at Planning Committee Meetings, is also available for viewing on the website:
<http://www2.guildford.gov.uk/councilmeetings/documents/s7809/GuidetospeakingatPlanningCtte.pdf>

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. Councillor representations on appeals against planning decisions

- 29.1 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 his or her intention to the Monitoring Officer and Planning Development Manager, as well as the appellant.

- 29.2 Where the appeal is to be dealt with at an inquiry, the 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.
- 29.3 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.

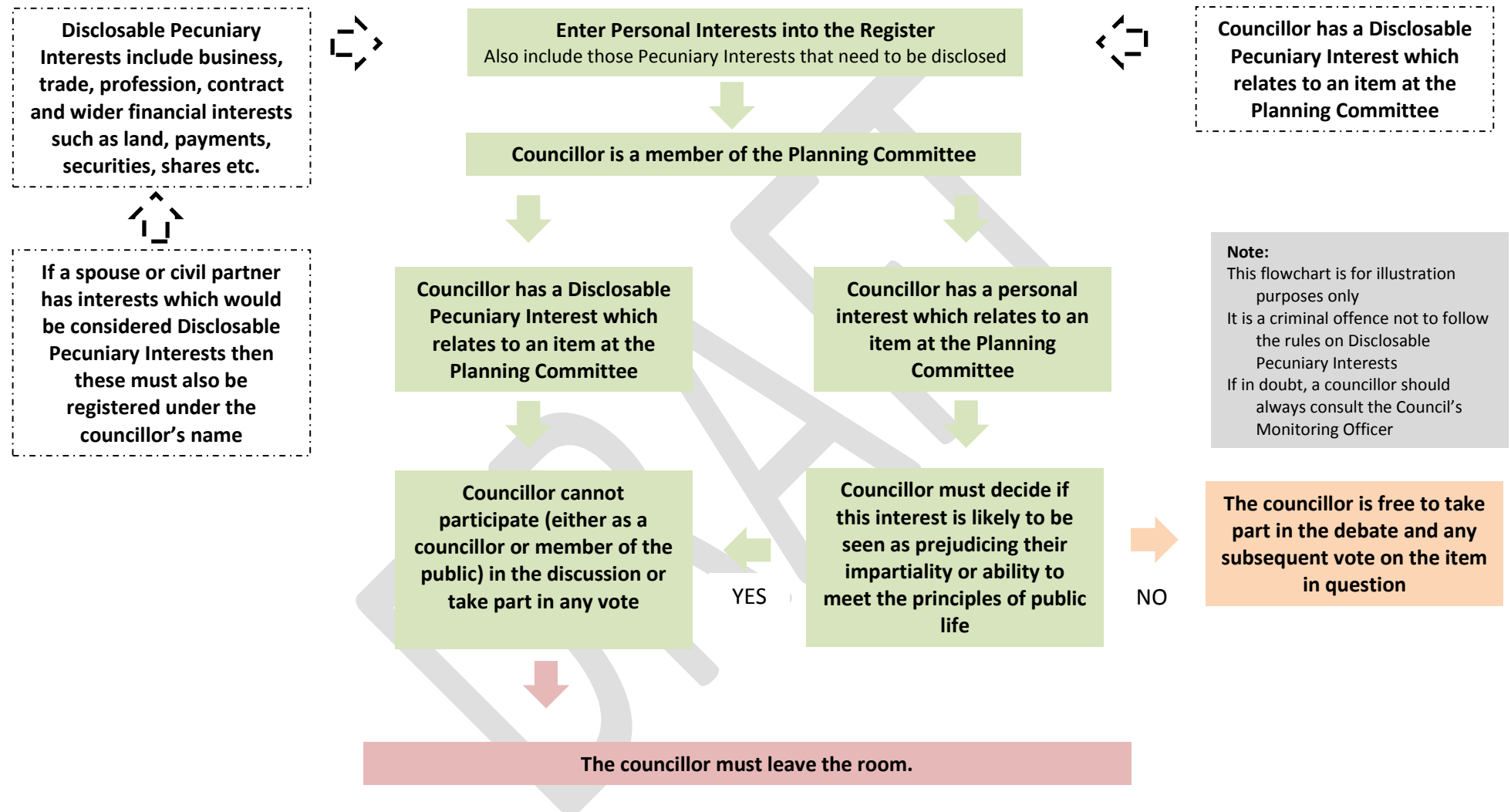
30. Planning Enforcement

- 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:
<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:	Y	Y1	Y	Y1	Y	Y
EIA development	Y	Y	Y	Y	Y	Y
Not in accordance with Development Plan	Y	Y	Y	Y	Y	Y
Affecting a public right of way	Y					
Major development	Y	Y	Y	Y	Y	Y
Affecting the setting of a Listed Building or the character and appearance of a Conservation Area	Y	Y	Y	Y	Y	Y
Other planning applications	Y	Y1	Y	Y1	Y	Y
Listed Building applications:	Y	Y	Y	Y	Y	Y
Vary or discharge conditions on Listed Building application	Y					
Prior Notifications Part 1: Larger Homes Household Extensions	Y		Y			
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	Y	Y1				
Class N Sui Generis to Residential	Y	Y1				
Class O Offices to Dwelling Houses	Y	Y1				
Class P Storage or Distribution to Dwelling Houses	Y	Y1				
Class Q Agricultural Buildings to Dwelling Houses	Y	Y1				
Class R, Class S, Class T, Class U, Class V	Y	Y1				
Prior Notifications Part 4: Class A-E Temporary Buildings and Uses	Y	Y1				
Prior Notifications Parts 5 to 15	Y	Y1				
Prior Notifications: Part 16 Telecommunications	Y	Y1				

	Website	Site notice	Site notice or neighbour/ owner	Press advert	Parish council	Ward Member
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

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Appendix 3: 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:

<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 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 10 letters/emails or more contrary to the officers recommendation;

- for all Major and Minor applications, the trigger for committee will be 20 letters/emails or more contrary to the officers recommendation;
- 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 Director of Planning and Regeneration asks the committee to decide; or
- that a councillor asks the committee to decide for planning reasons.

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.

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

Agendas are published five working days before each meeting. The agenda can be viewed on our website or copies are available at the committee meeting.

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.

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.

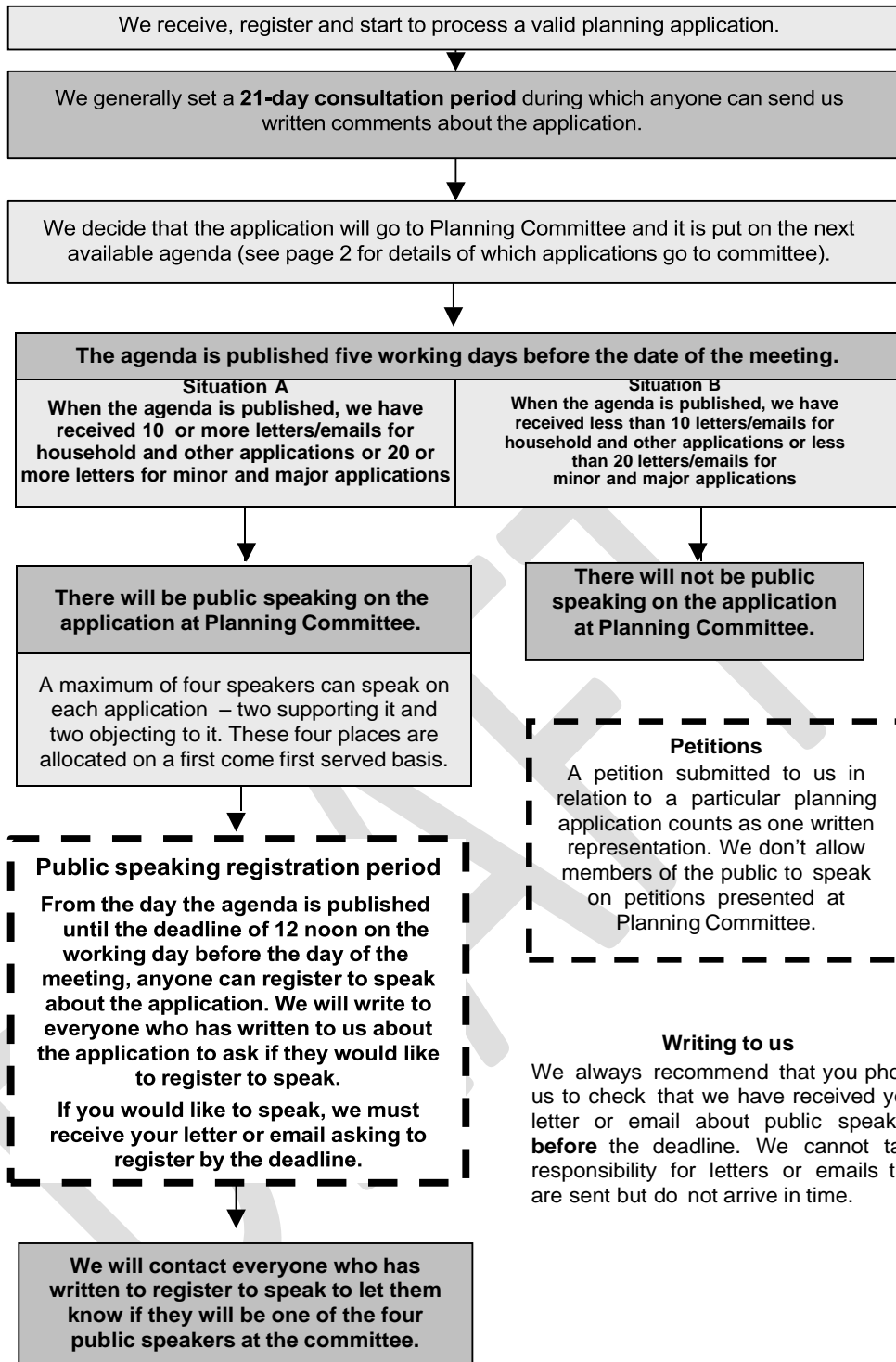
If you have any queries regarding the webcasting of meetings, please contact Committee Services by email on: committeeservices@guildford.gov.uk

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 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.



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
Senior Committee Officer
Guildford Borough Council
Millmead House
Millmead
GUILDFORD
Surrey GU2 4BB

Email: 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 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 I am speaking at a meeting, when should I arrive?

You should arrive in the Council Chamber by 6.45pm. The Senior Committee Officer will introduce 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 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.

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, Senior Committee Officer, by emailing sophie.butcher@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: 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

01483 444609 for planning enquiries email: planningenquiries@guildford.gov.uk
 01483 444056 for committee services email: sophie.butcher@guildford.gov.uk
 website: <http://www2.guildford.gov.uk/councilmeetings/ieListMeetings.aspx?Committeed=130>



Appendix 4: Seven day notification process template

The template used is as follows:

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	'X'	
I agree the officer recommendation		
I would like to refer the application to planning committee		Reasons Planning policies
I would like to request a committee site visit		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.

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Appendix 5:
Enforcement Call-in Procedure

