

PART 5 – PROBITY IN PLANNING

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

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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 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 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 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 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.
- 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.

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.

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 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.

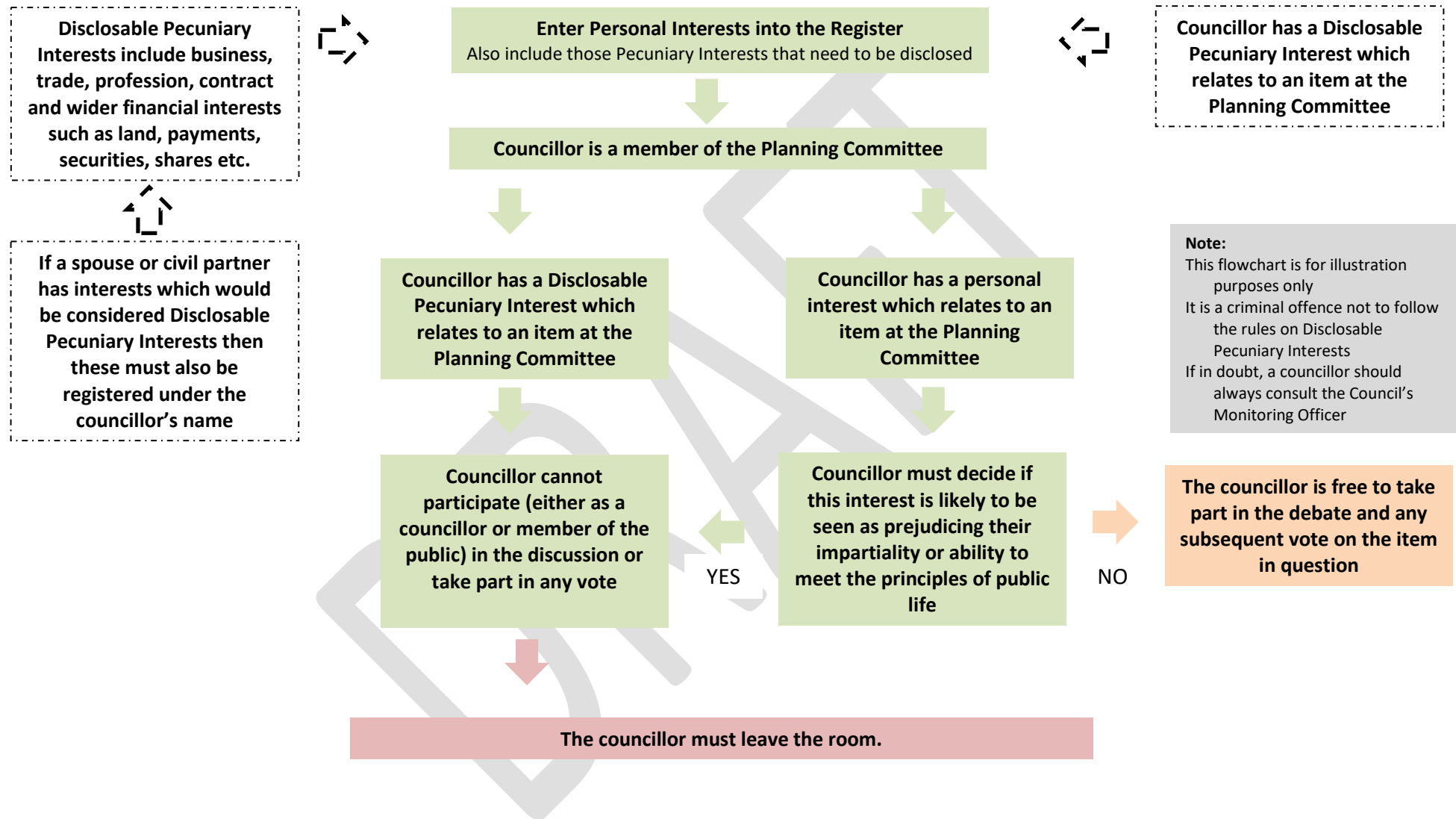
25. Public Speaking at Planning Committee (see Annex 5)

- 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



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 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.

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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



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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.

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We receive, register and start to process a valid planning application.

We generally set a **21-day consultation period** during which anyone can send us written comments about the application.

We decide that the application will go to Planning Committee and it is put on the next available agenda (see "What does the Planning Committee do?" above for details of which applications go to committee).

The agenda is published five working days before the date of the meeting.

Situation A
When the agenda is published, we have received 10 or more letters/emails for household and other applications or 20 or more letters/emails for minor and major applications which are contrary to the officer's recommendation.

Situation B
When the agenda is published, we have received less than 10 letters/emails for household and other applications or less than 20 letters/emails for minor and major applications which are contrary to the officer's recommendation

There will be public speaking on the application at Planning

A maximum of four speakers can speak on each application – two supporting it and two objecting to it. These four places are allocated on a first come first

There will not be public speaking on the application at Planning Committee.

Public speaking registration period

From the day the agenda is published until the deadline of 12 noon on the working day before the day of the meeting, anyone can register to speak about the application. We will write to everyone who has written to us about the application to ask if they would like to register to speak.

If you would like to speak, we must receive your letter or email asking to register by the deadline.

Petitions

A petition submitted to us in relation to a particular planning application counts as one written representation. We don't allow members of the public to speak on petitions presented at Planning Committee.

Writing to us

We always recommend that you phone us to check that we have received your letter or email about public speaking **before** the deadline. We cannot take responsibility for letters or emails that are sent but do not arrive in time.

We will contact everyone who has written to register to speak to let them know if they will be one of the four public speakers at the 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:

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

