

<b>Review of 'Protocol for the Operation of the Planning Committee' and 'Scheme of Delegation for Development Management, Development Plan, Enforcement and Other Planning Functions'.</b>	<b>22<sup>nd</sup> August 2018</b>
<b>Planning Committee</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environments and Assets; Innovation and Transformation
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough. Embrace new technologies and processes where they can bring about better experiences for citizens and visitors.
<b>Lead Officer</b>	Denise Dickson
<b>Cost: (If applicable)</b>	N/A

## **FOR DECISION**

### **1.0 Background**

- 1.1** The Protocol was previously reviewed and agreed on 25<sup>th</sup> October 2017 and took effect on 8<sup>th</sup> November 2017. The Scheme of Delegation was last revised on 7<sup>th</sup> November 2016 (Appendix 1).
- 1.2** Concerns relate to the increase in the number of requests to refer delegated planning decisions to Planning Committee for determination and the impact this is having on staff resources and length of Committee meetings.
- 1.3** At the Planning Committee meeting held 12<sup>th</sup> March 2018, it was requested that the 'Protocol for the Operation of the Planning Committee' be reviewed via a workshop and a report brought back to Planning Committee for agreement (Appendix 2).

### **2.0 Details**

- 2.1** The workshop to discuss current issues regarding the current Protocol took place on 20<sup>th</sup> April 2018 with 11 Planning Committee Members in attendance.
- 2.2** Issues raised related to:
- Delay in processing applications
  - Agents/applicants requesting withdrawal of applications from Committee Schedule and presenting at a later date – should only be in exceptional circumstances
  - Circulation of information to Members outside of planning process

- Receipt of late information when Committee Reports completed and circulated to Members
- Number of Speakers at Committee meetings and new information presented
- Increase in the number of delegated applications referred to Committee and impact on staff resources
- Material planning reasons for referral
- Increase in number of applications deferred for site visit
- Length of Committee meetings
- Reference to other Councils Schemes of Delegation

**2.3** Schemes of Delegation and Protocols for the Operation of the Planning Committee for those Councils that are meeting the statutory target for local applications are attached at Appendix 5. Of note:

- Mid and East Antrim Borough Council do not allow for Elected Members to refer delegated applications to Planning Committee for determination. Their Planning Committee is schedule from 10am with a guillotine at 1pm. The maximum time for speakers to address the Committee is 4 minutes. Mid and East Antrim Borough Council had an average processing time of local applications of 9.6 weeks in 2017/18 and received 875 applications.
- Antrim and Newtownabbey Borough Council allows for applications recommended for refusal, except where the refusal decision relates to a retrospective application where there is an Enforcement Notice in place or cases where information required to determine the application has not been submitted following a reasonable request. Referral of applications to Planning Committee by a Member of Council can only be made within 21 calendar days of validation and accompanied by a sound planning reason. Antrim and Newtownabbey Borough Council received 717 applications in 2017/18 and processed local applications in an average time of 12.1 weeks.
- Fermanagh and Omagh District Council allows for a member of the Planning Committee to refer a delegated application to Planning Committee for determination within 3 weeks from receipt of the application and must be accompanied by a clear planning reason. They do not allow for the circulation of any additional information after the agenda has issued other than addendum or update of reports on day of meeting. Furthermore, they have a time limit of 10 minutes imposed for applicants, agents and supporters and 5 minutes for objectors. There is a restriction preventing any new information or documentation not previously included as part of the application being introduced or circulated. Furthermore, those decisions to approve contrary to officers recommendation require a recorded vote and decision from Members supporting the proposal on who will defend the Committee's decision in court if judicially reviewed. Fermanagh and Omagh District Council received 1,024 applications in 2017/18 and had an average processing time for local applications of 12.4 weeks.
- Armagh City, Banbridge & Craigavon Borough Council Scheme of Delegation is similar to this Council's however, applicant, agent, support and objectors only have a maximum of 3 minutes speaking time at the Planning Committee and Members cannot seek amendments to the application. They received 1,320 applications in 2017/18 with an average processing time for local applications of 14.0 weeks.

- Mid Ulster District Council refer all delegated refusal applications and all delegated approvals where there is a valid objection received to Planning Committee for determination. However, Members are normally only allowed to speak once on any application in order to ensure committee business is dealt with in a speedy manner. Members are not allowed to amend the application. Furthermore any written information received from speakers for circulation to Members received after the deadline for registering speaking rights is returned. Speakers are allocated 3 minutes speaking time and are not allowed to speak a second time if the application is deferred and returned to Committee for decision. Finally, both members and the Planning Manager may ask speakers questions. Mid Ulster received 1,397 applications and processed local applications in an average time of 14.4 weeks.

### 3.0 Proposed Options for Decision

3.1 Having considered the issues raised at the workshop and comments made by Mr Justice McCloskey at the recent judicial review hearing the following proposals are put forward for Members consideration. These have been inserted into the existing Scheme of Delegation and Protocol at Appendix 3 and 4 for ease of comparison.

### 3.2 Scheme of Delegation

**PROPOSAL 1:** Rename the Scheme of Delegation to the ‘Scheme of Delegation for the Planning Department’.

*Officer’s Comment:* The existing title ‘Scheme of Delegation for Development Management, Development Plan, Enforcement and Other Planning Functions’ is very long and cumbersome. The shortened title covers all functions of the Planning Department.

**PROPOSAL 2:** Part B bullet point 3 – amend to read: ‘Applications where an Elected Member has requested the application to be referred to the Planning Committee and the request is received with 6 weeks of validation of the planning application and accompanied with a statement outlining the material planning reasons for referral.’

Amend footnote 1 to read: ‘Applications for referral to Planning Committee exclude Pre Application Notices, Applications for works to Trees, Discharge of Conditions, Non Material Changes and Certificates of Lawful Development.’

*Officer’s Comment:* This removes the requirement for referrals to be supported by 2 Planning Committee Members and reflects the process of the top performing Councils. By moving the referral request to earlier in the planning process it will reduce delays at the end of the assessment as there would no longer be a necessity to circulate a contentious list, hold decisions for a week and then at that stage prepare a Planning Committee report. It has the potential to increase the time to process referral applications by between 3 - 6weeks. With 37% of applications being processed within the 15 week statutory target this has the potential to improve this performance.

**PROPOSAL 3:** Part C insert the following delegated matters –

- Responding to consultations on planning matters on behalf of Council

- To instruct a solicitor or legal executive employed or instructed by the Council or other consultant in the preparation for and attendance at Planning Appeals, Independent Examinations and other Hearings.
- In respect of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 or any successor, to
  - Consider and determine waste management plans.
- All other statutory powers connected to the exercise of the planning functions which have been transferred to Council and are not specifically listed, shall be deemed to be delegated unless otherwise provided for within this Scheme.
- Amend appointed officers to refer to grades only to allow flexibility due to staff changes.

*Officer's Comment:* The inclusion of the above additional points within Part C covers issues that have come before the Planning Department that are either minor in nature or require a quick turnaround not provided for under current consultation periods or periods for action.

**PROPOSAL 4:** Part D – amend address where copy of scheme is available to Causeway Coast and Glens Borough Council, Planning Department, Cloonavin, 66 Portstewart Road, Coleraine, BT52 1 EY.

*Officer's Comment:* The address on the current Scheme is for County Hall and this amendment reflects the move of the Planning Department to Cloonavin.

### 3.3 Protocol for the Operation of the Planning Committee

**PROPOSAL 5:** Preliminary Matters – subject to decision on Proposal 2, remove bullet point 2 and amend bullet point 1 to include insertion of date of expiry for referral to Planning Committee for determination.

*Officer's Comment:* Including the expiry date for referral of planning applications to Planning Committee on the weekly validated list will assist members in determining those applications that remain within the referral period.

**PROPOSAL 6:** Frequency of Planning Committee Meetings paragraph 4.1 – insert 'Meetings will commence at 2pm and conclude no later than 7pm. Any items on the agenda that have not been considered at that time will be adjourned for consideration at a reconvened meeting.'

*Officer's Comment:* It is important that Members are fully engaged on each agenda item and therefore extending the meeting beyond 8pm may result in Members and Officer's concentration lapsing.

**PROPOSAL 7:** Referral of Delegated Applications to Planning Committee – subject to decision on proposal 2, remove reference to need for support from two Planning Committee Elected Members. Insert 'The request should be emailed to [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) prior to 6pm on the date of expiry for referral.'

*Officer's Comment:* This amendment is required if Proposal 2 is agreed to reflect the change to the referral process of no longer requiring a referral to be supported by two

Planning Committee Members. Furthermore, removal of the option to write to Head of Planning to request referrals is to ensure that all requests are received via the Planning email account as this is monitored daily and will ensure that they are actioned appropriately in a timely fashion.

**PROPOSAL 8:** Format of Planning Committee Meetings – insert section after paragraph 6.1

‘Declaration of Interests

Members will be required to declare an interest on any item on the agenda and remove themselves from the Chamber for the duration of the consideration of that item. The Member(s) will only be invited back into the Chamber to speak on the application if they have registered to do so and must leave again thereafter. Otherwise they must remain outside of the Chamber until invited back prior to consideration of the next agenda item.’

and renumber all other paragraphs accordingly.

*Officer’s Comment:* Members who have declared an interest in an agenda item must leave the chamber to allow the remaining Members to consider the item and reach a decision on the issue.

**PROPOSAL 9:** Format of Planning Committee Meetings Elected Members questions point (iv) and (vi) – include in both sections: ‘Members should normally only speak once on any application to ensure Committee business is dealt with in an efficient manner.’

*Officer’s Comments:* This amendment is required in order to ensure that all Members get the opportunity to seek clarification on an application if necessary and to ensure that questioning and debate on applications are not protracted in order that all items on agenda are dealt with within the allocated time for the meeting.

**PROPOSAL 10:** Format of Planning Committee Meetings point (x) Elected Members Decision – amend to 1<sup>st</sup> paragraph to read:

‘A Member must make a proposal and this must be seconded by another Member before a vote can be taken. The Chair has the casting vote.’

Amend paragraph 2 to read:

‘The Chair should ask the Committee if it is ready to vote on an application and provide a reminder of the proposal. The Planning Officer and/or Legal Adviser may advise Members on the implication of the vote in either direction.’

Replace remaining paragraphs at point (x) with:

‘Members can add conditions to an approval decision or add reasons for refusal to a refusal decision but they cannot amend the application (for example amend the layout or reduce the number of units). Any additional conditions or reasons for refusal must be proposed and seconded before being voted on by Members. Members should be aware of the legal test for conditions as these can be appealed to the Planning Appeals Commission and challenged through the courts – they should be necessary, enforceable, reasonable and relevant to planning and the

development under consideration. The Planning Officer and/or Legal Adviser should provide advice as necessary.

Members can defer consideration of an application to a subsequent meeting for further information, further negotiations or a site visit. The Member proposing the deferral must provide clear reasons as to why a deferral is necessary. A proposal for a deferral must be seconded by another Member before being voted on. Consideration of an application should normally only be deferred once.

On the occasion where Members propose to determine the application contrary to Planning Officer's recommendation (i.e. to approve where Officers' recommendation is to refuse or vice versa) the vote will be a recorded vote. The reasons for any decision which are made contrary to the Planning Officers' recommendation will be formally recorded in the minutes and a copy placed on file.'

*Officer's Comment:* The above provides further clarity on the procedure and options available to Members on determining planning applications and the recording of votes where the decision is contrary to Officer's recommendation. This is to provide clarity and transparency should the decision be appealed to the Planning Appeals Commission or judicially reviewed.

**PROPOSAL 11:** Circulation of documentation – bold writing at end of para. 6.2 amend to read

'No documentation shall be circulated directly to Members from the public. All documentation must be submitted to the Planning Department via [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) by 6pm on the Friday prior to the Committee meeting. This is to ensure that the information is considered by Planning Officer's in making a recommendation to the Planning Committee and to check for accuracy or provide considered advice on any material planning issues arising. Documentation circulated directly to Members from the public will not be considered in the determination of the planning application.'

*Officer's Comment:* The restriction on circulation of information directly to Members was an issue raised at a recent judicial review and the Judge made oral comment that the existing wording in the Protocol should refer to all rather than just speakers. This amendment reflects the Judge's comments. This is important to ensure that Planning Officers have considered all of the material issues raised in making a recommendation to the Planning Committee and to check the accuracy of the information and that all Members have the same information prior to making a decision on a planning application.

**PROPOSAL 12:** Paragraph 6.3 – Insert title 'Speaking Rights' and amend to read 'All parties wishing to address the Committee on a planning application must register their wish to do so with Council's Members Services or email [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) by 12noon on the Thursday immediately prior to the Planning Committee meeting by providing their name, whether they are speaking in support or objecting to the application and the planning reference number of the application on which they wish to speak. Only those registered to speak within the timeframe will be allowed to address the Committee and/or answer questions from Members.

On the occasion where the consideration of an application is deferred by Members to a subsequent Committee meeting, those who have previously registered to speak on that application will be allowed to address the Committee at the subsequent meeting without the need to register to speak again.

*Officer's Comments:* This amendment to the timeframe to submit requests to speak on an application provides clarity. The proposal also provides clarity on the transfer of the speaking rights to subsequent meetings if consideration of the application is deferred.

**PROPOSAL 13:** Decisions Contrary to Officer Recommendation – Amend paragraph 7.1 to read:

‘On occasion, the Planning Committee may determine an application contrary to Planning Officers’ recommendation. Where the Committee makes such a decision it must be based on sound, clear and logical planning reasons, linked to the development plan and relevant planning policy and must be articulated prior to Members voting on the proposal. Planning Officer(s) and/or Legal Adviser(s) will have the opportunity to explain the implications of the Planning Committee’s proposal to determine an application contrary to the Officers’ recommendation prior to Members voting on the proposal. Consideration will need to be given as to whether the decision is capable of being defended at an appeal to the Planning Appeals Commission with the potential for award of costs against Council or defended if challenged through a Judicial Review.

In such circumstances a recorded vote will be taken and the Planning Committee will decide, from amongst those Members supporting the proposal, who will defend the Committee’s decision at appeal or in court. The reasons for any decision which are made contrary to the Planning Officers’ recommendation must be formally recorded in the minutes and a copy placed on file.’

*Officer's Comments:* This reflects Proposal 8 and provides clarity and transparency in the decision-making process allowing those who made the decision to defend their reasoning if challenged.

**PROPOSAL 14:** Site Visits paragraph 8.6 – amend to read:

‘Attendance at site visit is optional. However, when an application has been deferred at Planning Committee for a site visit, the proposer and seconder must be in attendance at that site visit otherwise they cannot take part in the determination of that application when it is presented to Planning Committee for determination at a subsequent meeting. The Planning Officer shall record the date of the visit, attendees and any other relevant information.’

*Officer's Comments:* On the occasion where a Member proposes or seconds a deferral of the consideration of a planning application for a site visit, they are perceived to be unable to make a decision on the application unless they have visited the site. Therefore, if they do not attend the site visit they cannot take part in the debate or vote on that application when it is returned to Committee for determination at a subsequent meeting.

**PROPOSAL 15:** Subject to agreement of Proposal 6 restricting the time for the Planning Committee to 7pm amend the times for Recess to between 4:30pm and 5:00pm

*Officers Comments:* One break for 15 minutes in the mid-point of the meeting rather than two breaks should be sufficient to allow Members and Officers an opportunity to refresh. This does not preclude members requesting a short 5 minute break at any time they consider necessary throughout the meeting.

**PROPOSAL 16:** insert the following text at Section 11:

'11.0 Confidential Matters

11.1 In the event that the Planning Committee resolve to go 'In Committee' only Members of the Planning Committee, Council Officers in attendance and Legal Adviser(s) shall remain within the Council Chamber. All members of the public, press etc. must leave the Chamber, including those Members of the Planning Committee who have declared an interest on that item and other Members of the Council who do not sit on the Planning Committee.

*Officer's Comments:* Discussions 'In Committee' are solely to provide legal advice or discuss confidential matters to those Members who will be making the decision on the item under consideration.

#### **4.0 Recommendation**

**4.1 IT IS RECOMMENDED** that the Committee agree that the Head of Planning amends the Protocol for the Operation of the Planning Committee and Scheme of Delegation attached at Appendix 3 and 4 inserting agreed amendments.



## **Scheme of Delegation for Development Management, Development Plan, Enforcement and Other Planning Functions**

The revised Scheme of Delegation for the determination of planning applications was approved by the Department for Infrastructure on 28<sup>th</sup> October 2016. The approval is in accordance with Section 31 of The Planning Act (Northern Ireland) 2011. The revised Scheme of Delegation shall take effect from 7<sup>th</sup> November 2016.

### **Part A – Mandatory applications for determination by the Planning Committee:**

Statutory requirements require that certain types of application must be determined by the Planning Committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development;
- An application for planning permission where the application is made by the Council or an elected member of the Council, and
- The application relates to land in which the Council has an interest.

### **Part B – Delegated Applications:**

The following applications for planning permission shall be delegated for determination by the appointed officer of the Council. The appointed officer is the Head of Planning within the Council and those nominated by this officer.

To determine all local development applications whether for approval or refusal with the exception of:

- Applications attracting more than 5 objections from separate addresses; or, a petition from more than 5 from separate addresses raising material planning considerations.
- Applications where the Head of Planning considers that the proposal merits consideration by the Planning Committee.
- Applications where an elected member has requested the application to be referred to the Planning Committee, accompanied with a statement outlining the material planning reasons for the referral and supported by 2 Planning Committee elected members<sup>1</sup>
- Applications submitted by or on behalf of the Chief Executive of the Council, a chief officer of the Council, a planning officer or their immediate families, or the immediate family<sup>2</sup> of an elected member.
- A legal agreement is required.

<sup>1</sup> This referral procedure will be assisted by the circulation of a weekly list of those contentious delegated applications where the decision is ready to issue. A contentious application is one where the decision is to refuse permission or where the decision is to approve but objections to the proposed development have been received.

<sup>2</sup> Immediate family for the purposes of this Scheme of Delegation refers to wife/ husband/ partner, son(s), daughter(s).

## **Part C – Development Plan, Enforcement and Determination of Other Matters**

As well as determining planning applications, the Council will also have to administer the development plan, enforcement of planning and the processing of other planning consents. Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014 allows a Council committee to delegate to an officer of the council.

The Planning Committee shall be required to consider and determine: -

- the Council's strategic and local policies for the implementation of the Council's objectives in relation to the development of land within the Council area.
- agree the Plan Strategy and Local Policies Plan for the Council Area prior to ratification by the full Council
- Confirmation of a Provisional Tree Preservation Order.
- Determination of Completion Notices.
- Determination of Discontinuance Notices.
- Confirmation of a Building Preservation Notice.
- Determination of Revocation Orders.
- Application to the Courts for Injunctions.
- Modification and Discharge of Planning Agreements.
- Designation, variation or cancellation of a Conservation Area.

The following matters are delegated to the appointed officer:

- The research, analysis, evaluation of information and drafting of Plan Strategy and Local Policies Plan, including representing the Council at Independent Examination.
- To instruct a solicitor or legal executive employed or instructed by the Council or other consultant to assist in the preparation of the Plan Strategy and Local Policies Plan; assist in the preparation for, and represent the Council at the Independent Examination as considered necessary by the Head of Planning in consultation with the Planning Committee.
- To monitor the uptake of zoned land within the Local Policies Plan.
- To review the impact of the implementation of the Plan Strategy and Local Policies Plan.
- The serving of a provisional Tree Preservation Order.
- Updating Tree Preservation Orders as necessary.
- The investigation of formal planning enforcement proceedings through the issuing of Enforcement Notices, Breach of Condition Notices, Listed Building Enforcement Notices, Stop Notices, temporary Stop Notices, Fixed Penalty Notices, and Planning Contravention Notices.
- The formal reporting of planning enforcement matters to the Public Prosecution Service/ Commencement of proceedings in a Magistrates Court.
- Authority to apply to the Magistrates Court for a warrant to enter land and/or buildings in accordance with powers provided in the Planning Act (Northern Ireland) 2011
- Determination of any application for a Certificate of Lawful Development.
- Determination of any application for Listed Building Consent.
- Determination of any application for Conservation Area Consent.
- Determination of any application for Advertisement Consent.
- Determination of any application for carrying out works to trees.
- Determination of any Hazardous Substance Consent.
- Determination of applications for Certificates of Alternative Development Value.
- Determination of applications for Urgent Crown Development and Urgent Crown Listed Building Consent.

- Issuing Building Preservation Notice where immediate action is necessary.
- Determination of a request for a Correction Notice
- Providing advice on general planning inquiries
- Providing advice on Pre-Application Discussions
- Providing advice on Pre-Application Notices.
- Applications for Non Material Changes.
- Discharge of planning conditions
- To determine the acceptance or otherwise of Section 46 applications
- To determine the acceptance or otherwise of Section 48 applications
- Determination of the type of planning appeal and amendments to Council's case during the course of appeal, subject to consultation as deemed appropriate by the Head of Planning with the Chair of the Planning Committee and representing the Council at appeal as necessary.
- To issue a formal Notice of Decision following a Committee resolution for support or non-support of an application and, for a delegated application, Order, Notice or Consent.
- To instruct a solicitor or legal executive employed or instructed by the Council to draft and conclude legal agreements as considered necessary by the Head of Planning in connection with the Committee or delegated decisions and appeals.
- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 or any successor legislation, to
  - Issue screening opinions determining whether developments fall within Schedule (1) and (2)
  - Issue scoping opinions as to the information to be provided in any Statement, and
  - Undertake appropriate consultations and notifications
  - Determine whether an application should be accompanied by an Environmental Statement

The appointed officers are as follows:

- Denise Dickson – Head of Planning
- Shane Mathers – Principal Development Management and Enforcement Officer
- Sharon Mulhern – Principal Development Plan Officer
- Karen Dickson – Senior Planning Officer
- Jennifer Lundy – Senior Planning Officer
- Catherine McKeary – Senior Planning Officer
- Julie McMath – Senior Planning Officer
- Michael Wilson – Senior Planning Officer

## **Part D – Publicity**

On adoption of this revised Scheme of Delegation the Council made a copy available on the Council's website at [www.causewaycoastandglens.gov.uk](http://www.causewaycoastandglens.gov.uk). A copy is also available at the Causeway Coast and Glens Borough Council Planning Office, County Hall, Castlerock Road, Coleraine.

**Implementation Date: 8<sup>th</sup> November 2017**

## **Protocol for the Operation of the Causeway Coast and Glens Borough Council Planning Committee**

### **1.0 Introduction**

**1.1** The Causeway Coast and Glens Borough Council, at its meeting held on 25<sup>th</sup> October 2017, agreed the revised 'Protocol for the Operation of the Planning Committee'. The revised Protocol takes effect on 8<sup>th</sup> November 2017. This revised document sets out the detailed procedures of the Planning Committee that are not covered by the Council's Standing Orders and Councillors' Code of Conduct.

**1.2** The Protocol will cover the following:

- Preliminary Matters
- Remit of the Planning Committee
- Frequency of Meetings
- Referral of Delegated Applications
- Format of the Planning Committee meetings
- Decisions Contrary to Officer Recommendation
- Site Visits
- Pre-Determination Hearings

### **2.0 Preliminary Matters**

**2.1** The following information will be circulated to Committee Members prior to the monthly Planning Committee meeting:

- A weekly list of all new planning applications received and planning applications decided will be circulated to all Elected Members. A summary report of performance in the processing of planning applications will be presented to Committee on a monthly basis.
- A list of all contentious delegated planning applications where the decision is ready to issue will be circulated to elected members on a weekly basis. A contentious application is one where the decision is to refuse permission or, where the decision is to approve but objections to the proposed development have been received. This list will be circulated to all elected members on the Tuesday of each week and uploaded onto the Council website. Elected members will have until 10am on the Monday of the following week to request a referral, in accordance with Part B of the 'Scheme of Delegation for Development Management, Enforcement and Other Planning Functions', otherwise the decision notice will issue.
- All Committee Members will be sent the agenda two weeks in advance of the meeting with a report on each planning application to be considered at the meeting by the Committee.
- Planning Officer shall prepare an addendum on the day of the Committee meeting to report any updates since the agenda issued.

- Planning Committee meetings should normally be open to the public.
- Substitute members shall not be permitted to deputise, unless agreed by both the Chair of the Committee and the Head of Planning, and only in exceptional circumstances.
- Legal representation may be in attendance at Committee.
- All members of Planning Committee must have taken the requisite training for either member or Chair role before they can sit on the Committee.

### **3.0 Remit of the Planning Committee**

#### **3.1 Development Management**

The main role of the Planning Committee is to consider applications made to Causeway Coast and Glens Borough Council as detailed in the adopted Scheme of Delegation and decide whether or not they should be approved. The decisions of the Planning Committee are taken under full delegated authority and will not go before full council for ratification.

#### **3.2 Development Plan**

The Planning Committee's role in relation to the local development plan is to approve the Plan Strategy and Local Policies Plan before it is passed by resolution of the full Council. The Planning Committee should ensure that the local development plan is monitored annually and reviewed every 5 years, giving consideration as to whether there is a need to change the Plan Strategy or Local Policies Plan.

#### **3.3 Enforcement**

The Planning Committee shall have an overview role of the enforcement function and officers shall prepare a quarterly report on the enforcement performance (number of cases opened, cases closed, notices issued and convictions obtained). The Planning Committee can request a report from officers on any enforcement matter but should not make a decision. Officers will exercise discretion when discussing sensitive enforcement matters at the Planning Committee to ensure possible future legal proceedings are not prejudiced.

### **4.0 Frequency of Planning Committees Meeting**

**4.1** The Planning Committee will meet at least once every calendar month. Additional meetings will be at the discretion of the Chair of the Committee with the consent of the Committee Members. No meeting will take place in the month of July.

### **5.0 Referral of Delegated Applications to Planning Committee**

**5.1** The Scheme of Delegation, approved at the Planning Committee held on 28<sup>th</sup> September 2016 and agreed with the Department for Infrastructure on 28<sup>th</sup> October 2016, taking effect from 7<sup>th</sup> November 2016, includes a procedure which allows for

Elected Members and Head of Planning to request that the Planning Committee considers an application rather than it being delegated to Officers. Members of the public will not be able to directly request this procedure. Any referral by an elected member of Council must be based on clearly specified planning grounds supported by two Planning Committee elected members. The request should be made in writing to the Head of Planning or emailed to [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk). The Elected Member who makes the referral request may address the Planning Committee meeting at which the application is to be decided.

## **6.0 Format of Planning Committee Meetings**

**6.1** The Committee meetings will be conducted following the below format:

- Notice of Meeting
- Apologies
- Declaration of Interests
- Approval of minutes of the previous meeting
- Order of Items and Confirmation of Registered Speakers
- Schedule of Planning Applications
- Performance Management Statistics report
- Development Plan matters
- Correspondence
- Enforcement matters
- Legal issues

**6.2** The following procedures will apply for each application:

- (i) **Introduction of planning application by the planning officers**  
*The planning officer presents the application and makes a recommendation on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown to demonstrate the proposals.*
- (ii) **Elected Members Questions to Planning Officer**  
*Members can ask points of clarification from the Officer*
- (iii) **Representations – Objector(s)**  
*The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.*

*The total time allowed for representations from objectors will be a maximum of 5 minutes. Therefore if 2 objectors wish to address the Committee they will each have a maximum of 2 minutes and 30 seconds. A spokesperson for the objectors may address the Committee on behalf of all objectors. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.*

*No documentation shall be circulated at the meeting to Members by speakers.*

- (iv) **Elected Members Questions to Objector(s)**  
*Elected Members can ask points of clarification/fact from the objector(s).*

- (v) **Representations on behalf of applicant – applicant, agent and supporter**  
*The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.*

*The total time allowed for representations from applicant, agent or supporter will be a maximum of 5 minutes. Therefore if applicant and a supporter wish to address the Committee they will each have a maximum of 2 minutes and 30 seconds. A spokesperson for the supporters may address the Committee on behalf of all supporters. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.*

*No documentation shall be circulated at the meeting to Members by speakers.*

- (vi) **Elected Members questions to applicant, agent or supporter**  
*Elected Members can ask points of clarification/fact from the applicant, agent or supporter(s)*

- (vii) **Representation by Councillor, MLA and/or MP**  
*The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.*

*The total time allowed for representations by council members will be 5 minutes. Therefore if 2 Elected Members of the Council wish to address the Committee, each will have a maximum of 2 minutes and 30 seconds each. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.*

*MPs and MLAs will be permitted to address the Committee when they have been asked to represent their constituents. The time allowed for representations from MPs and MLAs will be a maximum of 5 minutes. Therefore if both an MLA and MP wish to address the Committee they will have 2 minutes and 30 seconds each.*

*No documentation shall be circulated at the meeting to Members by speakers.*

- (viii) **Planning Officer's comments**  
*Planning Officer shall clarify points raised by those who made representations to the Committee.*

- (ix) **Elected Members' debate including advice from Officers**  
*Elected Members debate on the planning issue with the aim of having a constructive discussion on the merits of the planning application.*

- (x) **Elected Members' decision**  
*If the debate appears to be contrary to the Planning Officer's recommendation the Chair may invite a proposal for non-support of the recommendation. If it appears to support the Officer's recommendation no action is necessary.*

*The Chair should ask the Committee if it is ready to vote on the application and provide a reminder of the motion and the implication of the vote in either direction.*

*Voting will be either electronically or a clear show of hands/voting cards. The Chair will have the casting vote.*

*Elected Members must be present in the Council chamber for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.*

*Should Committee not agree with the Officer recommendation, Elected Members should discuss reasons for refusal and conditions to a proposal but cannot amend the application. Any additional conditions should be proposed and seconded before being voted on by Elected Members. Elected Members should be aware of the legal tests conditions need to meet if challenged. Conditions should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. Comments should be invited from the Planning Officer or Head of Planning as necessary.*

*The reasons for any decision which are made contrary to the Planning Officers' recommendation must be formally recorded in the minutes and a copy placed on file.*

**No documentation shall be circulated directly to Members by speakers. All documentation must be submitted to the Planning Department via [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) at least 3 working days prior to the Committee meeting.**

**6.3** All parties wishing to address the Committee must register their wish to do so with the Council's Committee Clerk or email [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) **by 6pm 1 week before the meeting**. If an objector to an application speaks, the applicant or their agent will be allowed to respond even if they have not registered to speak in advance. The time allowed for the applicant or agent to speak in this instance will be a total of 3 minutes.

**6.4** The Chairman may:

- (a) Suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting; or,
- (b) Vary the order of representations if he/she feels that it is convenient and will assist the Committee in dealing with the matter provided that it will not cause prejudice to the parties concerned.

**6.5** In lieu of speaking, Council Members and members of the public may submit representations in writing for consideration by the Committee. Written representations must be received by the Head of Planning or via email through [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) at least 1 week prior to the Planning Committee meeting and will be reported to the Committee in an update report and



circulated on the day of the meeting. Representations received after this time will be returned. The representations may be read out at the Committee provided there is sufficient time i.e. within the 5 minute timeframe, taking account of all speakers. Representations must not exceed 750 words.

- 6.6 An application scheduled for determination at the Planning Committee will not be withdrawn from the schedule due to failure of interested parties registering their request to speak within the above specified timeframe.
- 6.7 An application may be withdrawn from the schedule at the Chair's discretion and only in exceptional circumstances. Verification of the exceptional circumstances must be submitted via [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) by 6pm on the Friday prior to the Committee meeting for discussion with the chair.

## **7.0 Decisions Contrary to Officer Recommendation**

- 7.1 Some planning decisions are finely balanced and it is the prerogative of the Planning Committee to come to its conclusions and decision provided they are backed by sound, clear and logical planning reasons following an informed debate. The Committee Members can accept or give different weight to the various arguments and material considerations.
- 7.2 The Planning Officers/Head of Planning/Legal Adviser will have the opportunity to explain the implications of the Planning Committee's decision prior to the vote. Consideration will need to be given to whether such decisions will be capable of being defended on appeal to the Planning Appeals Commission with the potential for award of costs against the Council.
- 7.3 The reasons for any decision which are made contrary to the Planning Officer's recommendation must be formally recorded in the minutes and a copy placed on file.

## **8.0 Site Visits**

- 8.1 It is recognised that members of the Planning Committee may need to visit a site to help them make a decision on a planning application. For example, the proposal may be difficult to visualise or the application is particularly contentious.
- 8.2 The Head of Planning, in discussion with the Chair of the Committee, shall decide if a site visit would be beneficial and advise the Committee Members at least 4 working days prior to the Planning Committee Meeting at which the application is scheduled to be determined. Site visits will only be carried out where there are clear benefits.
- 8.3 An officer of Council should contact the applicant / agent to arrange access to the site where necessary. Invitations will be limited to members of the Planning Committee; Council Officers and consultees to the decision-making process and will normally be arranged for the morning of the Planning Committee meeting.
- 8.4 Site visits are not an opportunity to lobby Elected Members or be used to seek to influence the outcome of a proposal prior to the Planning Committee meeting. There shall be no public speaking on site visits. Therefore, members of the public cannot attend site visits.

- 8.5** Elected Members should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land. Furthermore, they will not have the information provided by the Planning Officer, and, in some circumstances, it might lead to allegations of bias.
- 8.6** Attendance of site visits is optional. The Council officer should record the date of the visit, attendees and any other relevant information.
- 8.7** The Planning Officer should prepare a written report on the site visit which should be presented to the Planning Committee Meeting at which the application is to be determined.

## **9.0 Pre-Determination Hearings**

- 9.1** The Planning Committee has a mandatory requirement to hold Pre-Determination Hearings for those major applications which have been referred to the Department for 'call-in' consideration, but have been returned to the Council for determination. The Planning Committee will be required to hold a Hearing prior to the application being determined. In addition, Council may also hold Pre-Determination Hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support or against the proposed development.
- 9.2** The intention is to make the application process for major applications more inclusive and transparent by giving applicants and those who have submitted representations the opportunity to be heard by Council before it takes a decision.
- 9.3** It will be a matter for the Chair of the Planning Committee and Head of Planning to judge when a Pre-Determination Hearing is appropriate, taking account of the relevance of the objections in planning terms, the complexity of the application and level of pre-application community consultation.
- 9.4** When holding a Pre-Determination Hearing the procedures will be the same as the normal Planning Committee meetings. The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. The number of individuals to speak on either side, time available etc will be agreed prior to the Hearing. If the Planning Committee decides to hold the Hearing on the same day as it wishes to determine the application, the Planning Officer's report should contain a recommendation. A power-point presentation as part of the speaking rights will be allowed at the Hearing.

## **10.0 Recess**

- 10.1** When the Planning Committee meeting lasts longer than 2 hours a 15 minute recess shall be taken between 4pm and 4.30pm and between 6pm and 6.30pm.



## **Scheme of Delegation for ~~Development Management, Development Plan, Enforcement and Other Planning Functions~~the Planning Department**

The revised Scheme of Delegation for the determination of planning applications was approved by the Department for Infrastructure on ~~28<sup>th</sup> October 2016~~[XX September 2018](#). The approval is in accordance with Section 31 of The Planning Act (Northern Ireland) 2011. The ~~further~~ revised Scheme of Delegation shall take effect from ~~7<sup>th</sup> November 2013~~[XX September 2018](#).

### **Part A – Mandatory applications for determination by the Planning Committee:**

Statutory requirements require that certain types of application must be determined by the Planning Committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development;
- An application for planning permission where the application is made by the Council or an elected member of the Council, and
- The application relates to land in which the Council has an interest.

### **Part B – Delegated Applications:**

The following applications for planning permission shall be delegated for determination by the appointed officer of the Council. The appointed officer is the Head of Planning within the Council and those nominated by this officer.

To determine all local development applications whether for approval or refusal with the exception of:

- Applications attracting more than 5 objections from separate addresses; or, a petition from more than 5 from separate addresses raising material planning considerations.
- Applications where the Head of Planning considers that the proposal merits consideration by the Planning Committee.
- Applications where an Elected Member has requested the application to be referred to the Planning Committee, [and the request is received within 6 weeks of validation of the planning application and](#) accompanied with a statement outlining the material planning reasons for the referral~~and supported by 2 Planning Committee elected members~~<sup>1</sup>
- Applications submitted by or on behalf of the Chief Executive of the Council, a chief officer of the Council, a planning officer or their immediate families, or the immediate family<sup>2</sup> of an elected member.
- A legal agreement is required.

<sup>1</sup> ~~This referral procedure will be assisted by the circulation of a weekly list of those contentious delegated applications where the decision is ready to issue. A contentious application is one where the decision is to refuse permission or where the decision is to approve but objections to the proposed development have been received~~[Applications for referral to Planning Committee exclude Pre Application Notices, Applications for works to Trees, Discharge of Conditions, Non-Material Changes and Certificates of Lawful Development.](#)

<sup>2</sup> Immediate family for the purposes of this Scheme of Delegation refers to wife/ husband/ partner, son(s), daughter(s).

### Part C – Development Plan, Enforcement and Determination of Other Matters

As well as determining planning applications, the Council will also have to administer the development plan, enforcement of planning and the processing of other planning consents. Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014 allows a Council committee to delegate to an officer of the council.

The Planning Committee shall be required to consider and determine: -

- the Council's strategic and local policies for the implementation of the Council's objectives in relation to the development of land within the Council area.
- agree the Plan Strategy and Local Policies Plan for the Council Area prior to ratification by the full Council
- Confirmation of a Provisional Tree Preservation Order.
- Determination of Completion Notices.
- Determination of Discontinuance Notices.
- Confirmation of a Building Preservation Notice.
- Determination of Revocation Orders.
- Application to the Courts for Injunctions.
- Modification and Discharge of Planning Agreements.
- Designation, variation or cancellation of a Conservation Area.

The following matters are delegated to the appointed officer:

- The research, analysis, evaluation of information and drafting of Plan Strategy and Local Policies Plan, including representing the Council at Independent Examination.
- To instruct a solicitor or legal executive employed or instructed by the Council or other consultant to assist in the preparation of the Plan Strategy and Local Policies Plan; assist in the preparation for, and represent the Council at the Independent Examination as considered necessary by the Head of Planning in consultation with the Planning Committee.
- To monitor the uptake of zoned land within the Local Policies Plan.
- To review the impact of the implementation of the Plan Strategy and Local Policies Plan.
- [Responding to consultations on planning matters on behalf of Council.](#)
- The serving of a provisional Tree Preservation Order.
- Updating Tree Preservation Orders as necessary.
- The investigation of formal planning enforcement proceedings through the issuing of Enforcement Notices, Breach of Condition Notices, Listed Building Enforcement Notices, Stop Notices, temporary Stop Notices, Fixed Penalty Notices, and Planning Contravention Notices.
- The formal reporting of planning enforcement matters to the Public Prosecution Service/ Commencement of proceedings in a Magistrates Court.
- Authority to apply to the Magistrates Court for a warrant to enter land and/or buildings in accordance with powers provided in the Planning Act (Northern Ireland) 2011
- Determination of any application for a Certificate of Lawful Development.
- Determination of any application for Listed Building Consent.
- Determination of any application for Conservation Area Consent.
- Determination of any application for Advertisement Consent.
- Determination of any application for carrying out works to trees.
- Determination of any Hazardous Substance Consent.

- Determination of applications for Certificates of Alternative Development Value.
- Determination of applications for Urgent Crown Development and Urgent Crown Listed Building Consent.
- Issuing Building Preservation Notice where immediate action is necessary.
- Determination of a request for a Correction Notice
- Providing advice on general planning inquiries
- Providing advice on Pre-Application Discussions
- Providing advice on Pre-Application Notices.
- Applications for Non Material Changes.
- Discharge of planning conditions
- To determine the acceptance or otherwise of Section 46 applications
- To determine the acceptance or otherwise of Section 48 applications
- Determination of the type of planning appeal and amendments to Council's case during the course of appeal, subject to consultation as deemed appropriate by the Head of Planning with the Chair of the Planning Committee and representing the Council at appeal as necessary.
- To issue a formal Notice of Decision following a Committee resolution for support or non-support of an application and, for a delegated application, Order, Notice or Consent.
- To instruct a solicitor or legal executive employed or instructed by the Council to draft and conclude legal agreements as considered necessary by the Head of Planning in connection with the Committee or delegated decisions and appeals.
- To instruct a solicitor or legal executive employed or instructed by the Council or other consultant in the preparation for and attendance at Planning Appeals, Independent Examinations and other Hearings.
- In respect of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 or any successor, to
  - Consider and determine waste management plans.
- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 or any successor legislation, to
  - Issue screening opinions determining whether developments fall within Schedule (1) and (2)
  - Issue scoping opinions as to the information to be provided in any Statement, and
  - Undertake appropriate consultations and notifications
  - Determine whether an application should be accompanied by an Environmental Statement
- All other statutory powers connected to the exercise of the planning functions which have been transferred to Council and are not specifically listed, shall be deemed to be delegated unless otherwise provided for within this Scheme.

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The appointed officers are as follows:

- ~~Denise Dickson~~ — Head of Planning
- ~~Shane Mathers~~ — ~~Officers at~~ Principal ~~Development Management and Enforcement~~ Officer grade
- ~~Sharon Mulhern~~ — ~~Principal Development Plan Officer~~
- ~~Karen Dickson~~ — ~~Officers at~~ Senior Planning Officer grade
- ~~Jennifer Lundy~~ — ~~Senior Planning Officer~~
- ~~Catherine McKeary~~ — ~~Senior Planning Officer~~
- ~~Julie McMath~~ — ~~Senior Planning Officer~~
- ~~Michael Wilson~~ — ~~Senior Planning Officer~~

#### **Part D – Publicity**

On adoption of this revised Scheme of Delegation the Council made a copy available on the Council's website at [www.causewaycoastandglens.gov.uk](http://www.causewaycoastandglens.gov.uk). A copy is also available at the Causeway Coast and Glens Borough Council Planning Office, [County Hall, Castlereck Road, Coleraine-Cloonavin, 66 Portstewart Road, Coleraine, BT52 1EY.](#)



Implementation Date: ~~8<sup>th</sup> November 2017~~ September 2018

## Protocol for the Operation of the Causeway Coast and Glens Borough Council Planning Committee

### 1.0 Introduction

1.1 The Causeway Coast and Glens Borough Council, at its meeting held on ~~25<sup>th</sup> October 2017~~ 22<sup>nd</sup> August 2018, agreed the revised 'Protocol for the Operation of the Planning Committee'. The revised Protocol takes effect on ~~8<sup>th</sup> November 2017~~ September 2018. This revised document sets out the detailed procedures of the Planning Committee that are not covered by the Council's Standing Orders and Councillors' Code of Conduct.

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1.2 The Protocol will cover the following:

- Preliminary Matters
- Remit of the Planning Committee
- Frequency of Meetings
- Referral of Delegated Applications
- Format of the Planning Committee meetings
- Decisions Contrary to Officer Recommendation
- Site Visits
- Pre-Determination Hearings

### 2.0 Preliminary Matters

2.1 The following information will be circulated to Committee Members prior to the monthly Planning Committee meeting:

- A weekly list of all new planning applications received and planning applications decided will be circulated to all Elected Members and include date of expiry for referral to Planning Committee for determination. A summary report of performance in the processing of planning applications will be presented to Committee on a monthly basis.
- ~~A list of all contentious delegated planning applications where the decision is ready to issue will be circulated to elected members on a weekly basis. A contentious application is one where the decision is to refuse permission or, where the decision is to approve but objections to the proposed development have been received. This list will be circulated to all elected members on the Tuesday of each week and uploaded onto the Council website. Elected members will have until 10am on the Monday of the following week to request a referral, in accordance with Part B of the 'Scheme of Delegation for Development Management, Enforcement and Other Planning Functions', otherwise the decision notice will issue.~~
- All Committee Members will be sent the agenda two weeks in advance of the meeting with a report on each planning application to be considered at the meeting by the Committee.

- Planning Officer shall prepare an addendum on the day of the Committee meeting to report any updates since the agenda issued.
- Planning Committee meetings should normally be open to the public.
- Substitute members shall not be permitted to deputise, unless agreed by both the Chair of the Committee and the Head of Planning, and only in exceptional circumstances.
- Legal representation may be in attendance at Committee.
- All members of Planning Committee must have taken the requisite training for either Member or Chair role before they can sit on the Committee.

### **3.0 Remit of the Planning Committee**

#### **3.1 Development Management**

The main role of the Planning Committee is to consider applications made to Causeway Coast and Glens Borough Council as detailed in the adopted Scheme of Delegation and decide whether or not they should be approved. The decisions of the Planning Committee are taken under full delegated authority and will not go before full council for ratification.

#### **3.2 Development Plan**

The Planning Committee's role in relation to the local development plan is to approve the Plan Strategy and Local Policies Plan before it is passed by resolution of the full Council. The Planning Committee should ensure that the local development plan is monitored annually and reviewed every 5 years, giving consideration as to whether there is a need to change the Plan Strategy or Local Policies Plan.

#### **3.3 Enforcement**

The Planning Committee shall have an overview role of the enforcement function and officers shall prepare a quarterly report on the enforcement performance (number of cases opened, cases closed, notices issued and convictions obtained). The Planning Committee can request a report from officers on any enforcement matter but should not make a decision. Officers will exercise discretion when discussing sensitive enforcement matters at the Planning Committee to ensure possible future legal proceedings are not prejudiced.

### **4.0 Frequency of Planning Committees Meeting**

- 4.1** The Planning Committee will meet at least once every calendar month. Additional meetings will be at the discretion of the Chair of the Committee with the consent of the Committee Members. No meeting will take place in the month of July. [Meetings will commence at 2pm and conclude no later than 7pm. Any items on the agenda that have not been considered at that time will be adjourned for consideration at a reconvened meeting.](#)



## 5.0 Referral of Delegated Applications to Planning Committee

5.1 The Scheme of Delegation, approved at the Planning Committee held on ~~28<sup>th</sup> September 2016~~<sup>22<sup>nd</sup> August 2018</sup> and agreed with the Department for Infrastructure on ~~28<sup>th</sup> October 2016~~<sup>XX September 2018</sup>, taking effect from ~~7<sup>th</sup> November 2016~~<sup>XX September 2018</sup>, includes a procedure which allows for Elected Members and Head of Planning to request that the Planning Committee considers an application rather than it being delegated to Officers. Members of the public will not be able to directly request this procedure. Any referral by an Elected Member of Council must be based on clearly specified planning grounds ~~supported by two Planning Committee elected members~~. The request should be ~~made in writing to the Head of Planning or~~ emailed to [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) ~~prior to 6pm on the date of expiry for referral~~. The Elected Member who makes the referral request may address the Planning Committee meeting at which the application is to be decided.

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## 6.0 Format of Planning Committee Meetings

6.1 The Committee meetings will be conducted following the below format:

- Notice of Meeting
- Apologies
- Declaration of Interests
- Approval of minutes of the previous meeting
- Order of Items and Confirmation of Registered Speakers
- Schedule of Planning Applications
- Performance Management Statistics report
- Development Plan matters
- Correspondence
- Enforcement matters
- Legal issues

### 6.2 Declaration of Interests

Members will be required to declare an interest on any item on the agenda and remove themselves from the Chamber for the duration of the consideration of that item. The Member(s) will only be invited back into the Chamber to speak on the application if they have registered to do so and must leave again thereafter. Otherwise they must remain outside of the Chamber until invited back prior to consideration of the next agenda item.

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~~6.26.3~~ The following procedures will apply for each application:

- (i) **Introduction of planning application by the planning officers**  
*The planning officer presents the application and makes a recommendation on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown to demonstrate the proposals.*
- (ii) **Elected Members Questions to Planning Officer**  
*Members can ask points of clarification from the Officer*
- (iii) **Representations – Objector(s)**  
*The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.*

*The total time allowed for representations from objectors will be a maximum of 5 minutes. Therefore if 2 objectors wish to address the Committee they will each have a maximum of 2 minutes and 30 seconds. A spokesperson for the objectors may address the Committee on behalf of all objectors. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.*

*No documentation shall be circulated at the meeting to Members by speakers.*

**(iv) Elected Members Questions to Objector(s)**

*Elected Members can ask points of clarification/fact from the objector(s). [Members should normally only speak once on any application to ensure Committee business is dealt with in an efficient manner.](#)*

**(v) Representations on behalf of applicant – applicant, agent and supporter**

*The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.*

*The total time allowed for representations from applicant, agent or supporter will be a maximum of 5 minutes. Therefore if applicant and a supporter wish to address the Committee they will each have a maximum of 2 minutes and 30 seconds. A spokesperson for the supporters may address the Committee on behalf of all supporters. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.*

*No documentation shall be circulated at the meeting to Members by speakers.*

**(vi) Elected Members questions to applicant, agent or supporter**

*Elected Members can ask points of clarification/fact from the applicant, agent or supporter(s). [Members should normally only speak once on any application to ensure Committee business is dealt with in an efficient manner.](#)*

**(vii) Representation by Councillor, MLA and/or MP**

*The Chair will welcome the speaker, including a reminder to keep to planning issues and the allocated time.*

*The total time allowed for representations by council members will be 5 minutes. Therefore if 2 Elected Members of the Council wish to address the Committee, each will have a maximum of 2 minutes and 30 seconds each. The Chair of the Committee may decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. The maximum time allowed will be an additional 3 minutes.*

*MPs and MLAs will be permitted to address the Committee when they have been asked to represent their constituents. The time allowed for representations from MPs and MLAs will be a maximum of 5 minutes. Therefore if both an MLA and*

MP wish to address the Committee they will have 2 minutes and 30 seconds each.

No documentation shall be circulated at the meeting to Members by speakers.

**(viii) Planning Officer's comments**

Planning Officer shall clarify points raised by those who made representations to the Committee.

**(ix) Elected Members' debate including advice from Officers**

Elected Members debate on the planning issue with the aim of having a constructive discussion on the merits of the planning application.

**(x) Elected Members' decision**

~~If the debate appears to be contrary to the Planning Officer's recommendation the Chair may invite a proposal for non-support of the recommendation. If it appears to support the Officer's recommendation no action is necessary. A Member must make a proposal and this must be seconded by another Member before a vote can be taken. The Chair has the casting vote.~~

The Chair should ask the Committee if it is ready to vote on the application and provide a reminder of the ~~proposal/motion~~. The Planning Officer and/or Legal Adviser ~~may~~ advise Members on the implication of the vote in either direction.

~~Voting will be either electronically or a clear show of hands/voting cards. The Chair will have the casting vote.~~

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Elected Members must be present in the Council Chamber for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.

Members can add conditions to an approval decision or add reasons for refusal to a refusal decision but they cannot amend the application (for example amend the layout or reduce the number of units). Any additional conditions or reasons for refusal must be proposed and seconded before being voted on by Members. Members should be aware of the legal tests for conditions as these can be appealed to the Planning Appeals Commission and challenged through the courts – they should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. The Planning Officer and/or Legal Adviser should provide advice as necessary.

Members can defer consideration of an application to a subsequent meeting for further information, further negotiations or a site visit. The Member proposing the deferral must provide clear reasons as to why a deferral is necessary. A proposal for a deferral must be seconded by another Member before being voted on. Consideration of an application should normally only be deferred once.

On the occasion where Members propose to determine the application contrary to Planning Officers' recommendation (i.e. to approve where Officers' recommendation is to refuse or vice versa) the vote shall be a recorded vote.

~~The reasons for any decision which is made contrary to the Planning Officers' recommendation will be formally recorded in the minutes and a copy placed on file.~~

~~Should Committee not agree with the Officer recommendation, Elected Members should discuss reasons for refusal and conditions to a proposal but cannot amend the application. Any additional conditions should be proposed and seconded before being voted on by Elected Members. Elected Members should be aware of the legal tests conditions need to meet if challenged. Conditions should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. Comments should be invited from the Planning Officer or Head of Planning as necessary.~~

~~The reasons for any decision which are made contrary to the Planning Officers' recommendation must be formally recorded in the minutes and a copy placed on file.~~

**No documentation shall be circulated directly to Members from the publicly speakers. All documentation must be submitted to the Planning Department via [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) at least 3 working days by 6pm on the Friday prior to the Committee meeting. This is to ensure that the information is considered by Planning Officers' in making a recommendation to the Planning Committee and to check for accuracy or provide considered advice on any material planning issues arising. Documentation circulated directly to Members from the public will not be considered in the determination of the application.**

**6.3** All parties wishing to address the Committee on a planning application must register their wish to do so with the Council's Committee Clerk/ Members Services or email [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) by 6pm 1 week before 12 noon on the Thursday immediately prior to the Planning Committee meeting by providing their name, whether they are speaking in support or objecting to the application and the planning reference number of the application on which they wish to speak. Only those registered to speak within the timeframe will be allowed to address the Committee and/or answer questions from Members. If an objector to an application speaks, the applicant or their agent will be allowed to respond even if they have not registered to speak in advance. The time allowed for the applicant or agent to speak in this instance will be a total of 3 minutes.

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On occasion where the consideration of an application is deferred by Members to a subsequent Committee meeting, those who have previously registered to speak on that application will be allowed to address the Committee at the subsequent meeting without the need to register to speak again.

**6.4** The Chairman may:  
(a) Suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting; or,  
(b) Vary the order of representations if he/she feels that it is convenient and will assist the Committee in dealing with the matter provided that it will not cause prejudice to the parties concerned.

- 6.5 In lieu of speaking, Council Members and members of the public may submit representations in writing for consideration by the Committee. Written representations must be received by the Head of Planning or via email through [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) at least 1 week prior to the Planning Committee meeting and will be reported to the Committee in an update report and circulated on the day of the meeting. Representations received after this time will be returned. The representations may be read out at the Committee provided there is sufficient time i.e. within the 5 minute timeframe, taking account of all speakers. Representations must not exceed 750 words.
- 6.6 An application scheduled for determination at the Planning Committee will not be withdrawn from the schedule due to failure of interested parties registering their request to speak within the above specified timeframe.
- 6.7 An application may be withdrawn from the schedule at the Chair's discretion and only in exceptional circumstances. Verification of the exceptional circumstances must be submitted via [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk) by 6pm on the Friday prior to the Committee meeting for discussion with the chair.

## 7.0 Decisions Contrary to Officer Recommendation

~~7.1 Some planning decisions are finely balanced and it is the prerogative of the Planning Committee to come to its conclusions and decision provided they are backed by sound, clear and logical planning reasons following an informed debate. The Committee Members can accept or give different weight to the various arguments and material considerations. On occasion, the Planning Committee may determine an application contrary to Planning Officers' recommendation. Where the Committee makes such a decision it must be based on sound, clear and logical planning reasons, linked to the development plan and relevant planning policy and must be articulated prior to Members voting on the proposal.~~

~~7.2 Planning Officer(s) and/or Legal Adviser(s) will have the opportunity to explain the implications of the Planning Committee's proposal to determine the application contrary to the Officers' recommendation prior to Members voting on the proposal. Consideration will need to be given as to whether the decision is capable of being defended at an appeal to the Planning Appeals Commission with the potential for award of costs against Council or defended if challenged through a judicial review.~~

~~7.3~~  
~~7.1 In such circumstances a recorded vote will be taken and the Planning Committee will decide, from amongst those Members supporting the proposal, who will defend the Committee's decision at appeal or in court. The reasons for any decision which are made contrary to the Planning Officers' recommendation must be formally recorded in the minutes and a copy placed on file.~~

~~7.2 The Planning Officers/Head of Planning/Legal Adviser will have the opportunity to explain the implications of the Planning Committee's decision prior to the vote. Consideration will need to be given to whether such decisions will be capable of being defended on appeal to the Planning Appeals Commission with the potential for award of costs against the Council.~~

~~7.3 The reasons for any decision which are made contrary to the Planning Officer's recommendation must be formally recorded in the minutes and a copy placed on file.~~

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## 8.0 Site Visits

- 8.1 It is recognised that Members of the Planning Committee may need to visit a site to help them make a decision on a planning application. For example, the proposal may be difficult to visualise or the application is particularly contentious.
- 8.2 The Head of Planning, in discussion with the Chair of the Committee, shall decide if a site visit would be beneficial and advise the Committee Members at least 4 working days prior to the Planning Committee Meeting at which the application is scheduled to be determined. Site visits will only be carried out where there are clear benefits.
- 8.3 An officer of Council should contact the applicant / agent to arrange access to the site where necessary. Invitations will be limited to members of the Planning Committee; Council Officers and consultees to the decision-making process and will normally be arranged for the morning of the Planning Committee meeting.
- 8.4 Site visits are not an opportunity to lobby Elected Members or be used to seek to influence the outcome of a proposal prior to the Planning Committee meeting. There shall be no public speaking on site visits. Therefore, members of the public cannot attend site visits.
- 8.5 Elected Members should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land. Furthermore, they will not have the information provided by the Planning Officer, and, in some circumstances, it might lead to allegations of bias.
- 8.6 Attendance of site visits is optional. [However, when an application has been deferred at Planning Committee for a site visit, the proposer and seconder must be in attendance at the site visit otherwise they cannot take part in the determination of that application when it is presented to Planning Committee for determination at a subsequent meeting.](#) The ~~Council Planning~~ eOfficer shall ~~record~~ record the date of the visit, attendees and any other relevant information.
- 8.7 The Planning Officer should prepare a written report on the site visit which should be presented to the Planning Committee Meeting at which the application is to be determined.

## 9.0 Pre-Determination Hearings

- 9.1 The Planning Committee has a mandatory requirement to hold Pre-Determination Hearings for those major applications which have been referred to the Department for 'call-in' consideration, but have been returned to the Council for determination. The Planning Committee will be required to hold a Hearing prior to the application being determined. In addition, Councils may also hold Pre-Determination Hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support or against the proposed development.

- 9.2** The intention is to make the application process for major applications more inclusive and transparent by giving applicants and those who have submitted representations the opportunity to be heard by Council before it takes a decision.
- 9.3** It will be a matter for the Chair of the Planning Committee and Head of Planning to judge when a Pre-Determination Hearing is appropriate, taking account of the relevance of the objections in planning terms, the complexity of the application and level of pre-application community consultation.
- 9.4** When holding a Pre-Determination Hearing the procedures will be the same as the normal Planning Committee meetings. The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. The number of individuals to speak on either side, time available etc will be agreed prior to the Hearing. If the Planning Committee decides to hold the Hearing on the same day as it wishes to determine the application, the Planning Officer's report should contain a recommendation. A power-point presentation as part of the speaking rights will be allowed at the Hearing.

## **10.0 Recess**

- 10.1** When the Planning Committee meeting lasts longer than 2 hours a 15 minute recess shall be taken between 4:30pm and 5:00pm ~~and between 6pm and 6.30pm.~~

## **11.0 Confidential Matters**

- 11.1** In the event that the Planning Committee resolve to go 'In Committee' only Members of the Planning Committee, Council Officers in attendance and Legal Adviser(s) shall remain within the Council Chamber. All members of the public, press etc. must leave the Chamber including those Members of the Planning Committee who have declared an interest on that item and other Members of the Council who do not sit on the Planning Committee.

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## **PROTOCOL FOR THE OPERATION OF THE PLANNING AND REGULATORY SERVICES COMMITTEE**

### Preliminary Matters

*A list of applications which have been delegated to appointed Planning Officers for determination pursuant to the Council's Scheme of Delegation on Planning Applications and Other Matters will be circulated to all Councillors each week. Within 5 working days of the publication of said list, Councillors can request that an application is referred to the Planning and Regulatory Services Committee. A sound planning reason must be given for such a referral.*

- All Planning and Regulatory Services Committee Members will be sent the agenda in advance of the meeting with a report on each application to be considered by the Committee.
- Officers will prepare an addendum on the day of the meeting to report any up-dates since the agenda was issued.
- The Chair will hold a pre-meeting with Planning Officers on each application to be considered in advance of the Planning and Regulatory Services Committee meeting.
- Planning and Regulatory Services Committee meetings will be open to the public.
- Substitute Members will not be permitted to deputise.

### **1. Frequency of Meetings**

The Planning and Regulatory Services Committee will meet at least once a month. Additional meetings will be at the discretion of the Chairman with the consent of the Committee.

### **2. Terms of Reference**

- To exercise the functions of the Council where these are not delegated to Officers as identified in the approved Scheme of Delegation.
- To determine a planning application or to decide upon or vary appropriate conditions, limitations, terms or other restrictions upon any approval, consent or permission granted and/or agree reasons for refusing consent.
- To note all reports received in respect of planning enforcement matters which are to be presented on a quarterly basis and/or when requested by members of the Committee.
- To approve the Local Development Plan and ensure that it is monitored every year and reviewed every 5 years.
- To approve other matters as and when they may arise, including the designation of Conservation Areas.
- Consider the development of linkages with community planning and other Council services.
- To strategically oversee the performance, administration and enforcement of the Building Control function in accordance with Regulatory Standards and Framework, maintaining and keeping up to date with legislative changes.
- To investigate, explore and develop linkages between Regulatory services and other Council services such as Planning and Regeneration with a view to providing greater integration, synergy and added value.



- To forge/establish linkages with key external agencies such as LPS, DSD and other agencies as appropriate to enhance service provision/performance and outcomes for Council and service end users.

### **3. Remit of Planning & Regulatory Services Committee**

#### Development Management

The main role of the Planning and Regulatory Services Committee is to consider planning applications made to the Council as the local planning authority and decide whether or not they should be approved. The decisions of the Planning and Regulatory Services Committee in determining planning applications will be taken on behalf of the Council and will not go to the full Council for ratification.

#### Development Plan

The Planning and Regulatory Services Committee's role in relation to development plan is to approve the Local Development Plan before it is passed by resolution of the full Council. The Committee will also have an oversight role to ensure that the Local Development Plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that the plan is reviewed every 5 years, giving consideration to whether there is a need to change the plan strategy or zonings, designations and policies.

#### Enforcement

All enforcement activities will be delegated to Planning Officers, who can use their professional judgement, in consultation as necessary with the Council's Legal Adviser, on what enforcement action to take, if any, to address breaches of planning control and/or whether or not to commence prosecution proceedings.

The Planning and Regulatory Services Committee will receive for information on a quarterly basis a report relating to planning enforcement matters. The Committee can also request a report on any enforcement matter at any time. Officers will exercise discretion when discussing sensitive enforcement matters at the Planning and Regulatory Services Committee to ensure possible future legal proceedings are not prejudiced.

#### Regulatory Services

The Planning and Regulatory Services Committee is responsible for overseeing the operation of the Council's Regulatory Service/Building Control.

All enforcement activities will be delegated to Building Control Officers, who can use their professional judgement, in consultation as necessary with the Council's Legal Adviser, on what enforcement action to take if any to address breaches of Building Control matters and/or whether or not to commence prosecution proceedings.

#### Format of Planning and Regulatory Services Committee Meetings

This will be subject to amendment in line with the Council's Standing Orders:

1. Apologies for absence and substitutions
2. Approval of Minutes of the previous meeting
3. Declarations of Interest
4. Schedule of Planning Applications
5. Development Plan issues
6. Enforcement and/or other matters
7. Regulatory Service matters

## 8. Dates of future meetings

At the beginning of each meeting of the Planning and Regulatory Services Committee, the Chairman will advise the following:

*“During the course of this meeting, questions may be asked by Councillors who are members of the Planning and Regulatory Services Committee of Planning Officers, applicants for planning permission, objectors or those speaking on their behalf. In doing so, Councillors endeavour to ascertain the information which they feel is necessary to enable them to determine the application. However, members of the public should note that Councillors will not reach a conclusion as to whether an application should be approved, refused or deferred until the debate on the application has concluded”.*

### Consideration of Planning Matters

The following minimum standards of practice will be followed for the meetings:

- All Members will have pre-read the Planning Officers’ report.
- The Committee will be conducted in an orderly fair and impartial manner.
- Consideration of planning matters.

The following procedures will apply for each application under item number 4 – Schedule of Planning Applications:

#### **(i) Introduction by Planning Officer**

The Planning Officer will present the application and make a recommendation on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown.

#### **(ii) Representation by Councillor, MP or MLA**

The total time allowed for representations by a Council Member for or against an application will be 5 minutes, unless the Chair of the Committee on the day decides to extend the time allowed due to unusual or exceptional circumstances. Where more than one Councillor wishes to speak for or against the application, this time slot will be shared.

MPs and MLAs will be permitted to address the Committee where they have been asked to represent their constituents. Proof of this fact must be submitted to the Council’s Chief Administrative Officer/Committee Clerk by 12 noon two working days before the meeting.

The total time allowed for representations from an MP for or against an application will be 5 minutes, unless the Chair of the Committee on the day decides to extend the time allowed due to unusual or exceptional circumstances. Where more than one MP wishes to speak for or against the application, this time slot will be shared. This rule will also apply to MLAs wishing to speak about the application.

#### **(iii) Representations – Objectors**

The total time allowed for an objector to address the Committee will be 3 minutes unless the Chair of the Committee decides on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. Where there is more than one objector, the Chair will ask for a spokesperson to represent their views.

**(iv) Representation on behalf of Applicant, Agent or Supporter**

The total time allowed for an applicant, agent or supporter to address the Committee will be 3 minutes unless the Chair of the Committee decides on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances.

If more than one person wants to speak in support of the application, the Chair of the Committee will ask for a spokesperson to represent their views.

**(v) Members' Questions to Objector, Applicant, Agent or Supporter**

**(vi) Planning Officer's Comments**

The Chair of the Committee will invite comments from the Planning Officer and Legal Adviser. Their comments will always be sought, prior to the matter being voted on by the Committee.

**(vii) Members' Debate (including, as necessary, further advice from the Planning Officer and/or Legal Adviser)**

**(viii) Members' Decision**

Any member who agrees with the officer's recommendation to approve an application can propose it be accepted. This will need to be seconded by another Member. Before the decision is agreed, the Chair will ask members if there is an alternative proposal, which would also have to be proposed and seconded. In the event of contrary proposals, the members will be asked to vote. The Chair has a casting vote.

Members must be present in the council chamber for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or act as proposer or seconder on that item.

Members can add, remove or amend conditions that are recommended by a Planning Officer. Where it is intended to do so, it will be proposed and seconded. Members must be aware of the legal tests that conditions need to meet – they are required to be necessary, enforceable, precise, reasonable, relevant to planning and relevant to the development under consideration. The Planning Officer and/or Legal Adviser will be invited to comment on any proposed amendments to conditions.

Any member who does not agree with the Officer recommendation to approve an application can propose reasons for refusal, which will need to be seconded by another member. Any decision by the Committee to overturn an Officer's recommendation must be based on sound planning grounds. The Chair will seek the views of the planning officer and/or legal adviser before seeking a proposer and seconder on reasons for refusal which are contrary to the officer's recommendation.

The reasons for any decision which are made contrary to the Planning Officer's recommendation must be formally recorded in the minutes and a copy placed on the file.

***Anyone wishing to address the Committee must provide written notification to the Council's Committee Clerk by 12 noon two working days before the meeting, giving their name, agenda item they wish to speak on and whether they are objecting to or supporting the application. The Planning and Regulatory Services Committee will be provided with the details of the speakers.***

The Chairman may:

- Suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting;
- Vary the order of representations if he/she feels that it will assist the Committee in dealing with the matter and provided that it will not cause prejudice to the parties concerned;
- Vary the order in which the Schedule of Applications is considered, if he/she feels that it will assist the Committee in dealing with the schedule and provided that it will not cause prejudice to the parties concerned; and/or
- Ask a speaker to clarify an issue they have raised but the Committee will not enter into a debate with a speaker.

#### **4. Deferrals**

The Planning and Regulatory Services Committee can defer consideration of an application to allow for further information in respect of the proposal or for a Site Visit to be conducted. Reasons for deferral will be recorded.

#### **5. Site Visits**

Site Visits will be undertaken where Members consider they are necessary in order to reach a decision on an application.

The Council's Planning and Regulatory Services Committee Clerk will contact the applicant/agent to arrange access to the site. Invitations will be limited to Members of the Planning and Regulatory Services Committee and Council Officers. Site Visits are not an opportunity for applicants to lobby Councillors or to seek to influence the outcome of an application.

The Chairperson of the Planning and Regulatory Services Committee will oversee the conduct of Site Visits. They will start promptly at the time notified to Members, and interested persons. At the request of the Committee Chairperson, the Planning Officer may be invited to describe the proposal to Members. Whilst Committee Members will be expected to be familiar with the Planning Officer's report, plans/drawings may be used where necessary.

The Planning Officer may indicate matters of fact in relation to the proposal and surrounding land which Members can take account of. Through the Committee Chairperson, Members can ask the Planning Officer for factual clarification on any planning matter relating to the proposal or surrounding land such as distances to adjoining properties or the location proposed car parking.

At no time during the Site Visit should Members debate the merits of the planning application.

At no time during the Site Visit should the applicant, their agent, any objector or any other member of the public who have learned of the visit and are present on the site be allowed to address Members. The public right to address the Planning and Regulatory Services Committee does not arise until the item is reached on the Committee Agenda.

Members should keep together in one group with the Chairperson and the Planning Officer and should avoid breaking away into smaller groups. Once the site visit is concluded, Members should leave the site promptly.

The Planning Officer will prepare a written report setting out the details of the site visit which will be presented to the meeting of the Planning and Regulatory Services Committee at which the application is to be determined.

Councillors are advised not to carry out their own unaccompanied site visits to avoid potential issues around trespassing onto land or encountering applicants or third parties which could lead to allegations of prejudice.

Attendance at site visits is optional, but it is recommended that the full Planning and Regulatory Services Committee attends, unless there are exceptional reasons for not doing so. The Clerk to the Planning and Regulatory Services Committee will record the date of the visit, attendees and any other relevant information.

Site Visits are part of the process by which the Planning and Regulatory Services Committee determines an application. Accordingly, only those Members of the Planning and Regulatory Services Committee who attend the Site Visit will be permitted to participate in any subsequent debate or vote by the Planning and Regulatory Services Committee on the applicable application to ensure that all Members determining the application do so on the basis of the same information.

## **6. Pre-Determination Hearings**

The Planning and Regulatory Services Committee will hold a Pre-Determination Hearing when it is legally required to do so and/or where the Committee considers it is necessary to hear the views of the local community before making a decision on a major planning application.

The procedures for such hearings will be the same as for a normal meeting of the Planning and Regulatory Services Committee, except that the applicant and all those who made representations to the Council regarding the application will be permitted to speak at the hearing. If the hearing is to be held on the same day that the Council is proposing to determine the application, the Planning Officer's report will include a recommendation.

## **7. Written Statements from the Public**

If a Council Member or member of the public is unable to attend the meeting of the Planning and Regulatory Services Committee they may instead submit written representations for consideration by Members. Such representations must not exceed 300 words and must be submitted to the Council's Committee Clerk by 12 noon two working days before the meeting. Written representations will be reported to the Committee in an update report and circulated to Members at the meeting.

Material received from the public at a meeting will not be accepted or circulated as Councillors are unable to give proper consideration to the new information and Officers may not be able to check for accuracy or provide considered advice on any material consideration arising.

## **8. Exhibiting Models and Displays at the Meeting**

Applicants or members of the public can exhibit models or displays at the meeting so long as they notify the Council's Planning and Regulatory Services Committee Clerk of their intention by 12 noon two working days before the meeting, giving their name, agenda item it relates to and whether they are objecting to or supporting the application.

## **9. Recording Meetings**

Meetings of the Planning and Regulatory Services Committee will be audio recorded and these recordings will only be used to verify the accuracy of the record of proceedings for the minutes. Recordings of meetings will be destroyed as soon as the minutes of the meeting are agreed by Council, except where retention for a longer period is otherwise required. Appropriate signage will be displayed in the public gallery and a verbal disclosure statement will be made at the commencement of each meeting.

Members of the public are not permitted to record proceedings unless permitted by the Council as per Section 10(1) of the Council's Standing Orders which states *"Taking photographs of proceedings or the use of any means by members of the public to enable persons not present to see or hear proceedings (whether at that time or later) or making of any oral report of any proceedings as they take place shall be prohibited unless expressly permitted by the Council"*

#### **10. Meeting Etiquette**

All representations will be heard in silence and without interruption. The Chair will not permit disruptive behaviour. If the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee.

#### **11. Members Should Not:**

- Rely on considerations that are not material considerations.
- Question the personal integrity or professionalism of officers in public.
- Propose to determine an application against an officer's recommendation until the reasons for that decision have been formulated.
- Seek to re-design or negotiate amendments to an application. The Committee must determine applications as they stand.
- Speak, propose or second a recommendation at a meeting of the Planning & Regulatory Services Committee in relation to a planning application submitted by or on behalf of that Councillor or a family member, friend or close personal associate of that Councillor.
- Furthermore, any such Councillor must leave the room when the application is being discussed.

#### **12. Provision of Legal Advice**

Members may require the Legal Adviser to provide legal advice on an issue which arises during the course of a meeting of the Planning and Regulatory Services Committee. In such circumstances, the Committee shall meet in private with only members of the Planning and Regulatory Services Committee, presiding officials and the Legal Adviser(s) remaining in the room. For the avoidance of doubt, all Councillors who are not members of the Planning and Regulatory Services Committee and members of the said Committee who have chosen to speak as a supporter or objector to an application will be required to withdraw from the room while the legal advice is provided on the matter arising.

**(Amended 11.04.18)**

## **Scheme of Delegation on Planning Applications and Other Matters**

The Scheme of Delegation for the determination of planning applications was agreed by the Council at its meeting of 24 July 2017. The Council agreed that the Scheme of Delegation be implemented following approval by the Department for Infrastructure for Northern Ireland. This approval was obtained on 11 August 2017. The approval is in accordance with Section 31 of The Planning Act (NI) 2011. The Scheme of Delegation takes effect from 11 August 2017.

### **Part A – Delegated Applications:**

The appointed officer is the Head of Planning within the Council and those nominated by this officer.

The appointed officer and those nominated by this officer shall determine all planning and other applications/matters (namely those listed at Part B of this document) whether for approval or refusal with the exception of:

1. An application which falls within the Major or Regionally Significant categories of development;
2. An application made by the council or an elected member of the council;
3. An application relating to land in which the council has an estate;
4. An application attracting objections from 4 or more separate postal addresses or a petition carrying 20 or more signatures citing material planning issues and which is recommended for approval (identically worded letters will be treated as a petition);
5. An application which represents a significant departure from the Development Plan and which is recommended for approval.
6. An application submitted by Planning Department Staff, Strategic Directors or Chief Executive of the Council or their immediate families and which is recommended for approval. (Immediate family for the purpose of this Scheme of Delegation refers to wife/husband/partner/son(s), daughter(s), mother, father, brother and sister).
7. An application attracting an objection from a statutory consultee, and which is recommended for approval;
8. An application referred to the Planning Committee by a councillor within 5 working days of councillors receiving a copy of the weekly list. A sound planning reason must be given for such a referral. (For clarification: The weekly list is a list of planning applications which have been considered by planning officers under the Scheme of Delegation and which includes the decision that planning officers propose to make in respect of each application).

9. An application where the Head of Planning considers the proposal to merit consideration by the Planning Committee;
10. An application which requires the completion of a legal agreement.
11. An application which has an associated application which is being determined by the Planning Committee.

## **Part B – Enforcement and Determination of Other Matters**

As well as determining planning applications, the Council will have to administer the enforcement of planning controls, process other planning consents and determine other planning matters. **Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014** allows a council committee to delegate any of its functions to an officer of the council. The Council endorsed this approach on 22 June 2015.

The following matters are delegated to the appointed officer and those nominated by the appointed officer.

- The making of a Tree Preservation Order (TPO), modification and/or revocation of a TPO.
- The serving of a Provisional Tree Preservation Order.
- Confirmation, revocation or modification of a Provisional Tree Preservation Order.
- All matters relating to planning enforcement including the issuing of enforcement notices, breach of condition notices, submission notices, stop notices, temporary stop notices, fixed penalty notices, information notices, planning contravention notices, injunctions and court proceedings.
- Determination of any application for a certificate of lawful development or use.
- Determination of any application for listed building consent.
- Determination of any application for conservation area consent.
- Determination of any application for advertisement consent.
- Determination of any application to carry out works to trees.
- Determination of any application for hazardous substance consent.
- Determination of any application for Non Material Changes to a planning permission.
- Updating Tree Preservation Orders



- Authority to apply to the Magistrate's Court for a warrant to enter land and/or buildings in accordance with powers provided by the Planning (Northern Ireland) Act 2011.

- Determination of a request for a Correction Notice.

- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 or any successor legislation, to:

Issue screening opinions determining whether applications fall within Schedule 1 or 2 of the regulations;

Issue scoping opinions regarding the information that is required to be provided in an Environmental Statement.

- Selection of planning appeal format and preparation of the Council's evidence for a planning appeal case.
- All applications for consent, discharge, agreement or variation of a condition imposed on any grant of consent except for a major application.

### **Part C - Publicity**

On adoption of this Scheme of Delegation the council made a copy

available on the Council's website at [www.armaghbanbridgecraigavon.org](http://www.armaghbanbridgecraigavon.org) and at the Area Planning Office, Marlborough House, Craigavon. Copies will also be made available at Bridgewater House from 19 September 2017 following re-location of the Planning Office to Banbridge.

APPENDIX 2 - The Protocol for the Operation of the Planning Committee



PROTOCOL  
FOR THE OPERATION  
OF THE  
ANTRIM AND  
NEWTOWNABBEY  
PLANNING COMMITTEE

April 2015

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## PURPOSE OF THE PROTOCOL

- 1 On 1 April 2015, the planning function currently delivered through the Department of the Environment's Area Planning Offices transferred to the 11 new local Councils in Northern Ireland. This protocol has been drafted to reflect the one issued by the Department of the Environment in January 2015 intended to assist the new Councils to set up and run Planning Committees. The protocol should be read in conjunction with the Council's agreed Standing Orders which can be accessed at [antrimandnewtownabbey.gov.uk](http://antrimandnewtownabbey.gov.uk)
- 2 Whilst the advice and guidance provided by the Department is not mandatory it does highlight what is considered to be best practice with regards to the operation of Planning Committees (following research in other jurisdictions). Antrim and Newtownabbey Borough Council has reflected this best practice in the content of this protocol, which will be reviewed and updated as required.
- 3 Elected members should refer, as necessary, to the mandatory Councillors' Code of Conduct, guidance issued on the Code by the Commissioner for Complaints, and to any relevant advice and guidance issued by the Department in relation to planning. A copy of the Councillors' Code of Conduct is included at Appendix 1.

## REMIT OF THE PLANNING COMMITTEE

### *Development Management*

- 4 The main role of the Planning Committee is to consider applications made to the Council as the local planning authority and decide whether or not they should be approved. To this end the Planning Committee of Antrim and Newtownabbey Borough Council has full delegated authority, meaning that the decisions of the Committee will not go to the full Council for ratification.

### *Development Plan*

- 5 Antrim and Newtownabbey Borough Council is required by Section 8 of the Planning Act (NI) 2011 to prepare a plan for its district to be known as a plan strategy. The strategy must set out the Council objectives in relation to the development land in its district, and its strategic policies for the implementation of those objectives. After the plan strategy has been adopted the Council must then prepare a local policies plan. This will set out the Council policy in relation to what type and scale of development is appropriate and where it should be located.

- 6 Both these documents comprise the Local Development Plan. This plan forms the basis for public and private investment decisions, providing a degree of certainty as to how land will be developed. In law, planning applications must be determined in accordance with the development plan unless other material considerations indicate otherwise. This means that where land is zoned for a particular use, the Planning Committee should ensure it is reserved for that use: for example, an application for housing in an area zoned for housing should be approved unless the design and layout fails in terms of the environmental, open space and access standards, or its design and layout has a detrimental impact on the character of the area or neighbouring amenity.
- 7 The Planning Committee's role in relation to the local development plan is to contribute to the development of and approve the local development plan before it is passed by resolution of the Council. The Planning Committee should also ensure that the local development plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that it is reviewed every five years, giving consideration to whether there is a need to change the plan strategy or the zonings, designations and policies as contained in the local policies plan.

#### ***Development Plan Transition Arrangements***

- 8 Until such time as Antrim and Newtownabbey Borough Council has adopted its plan strategy the local development plans for the Council area will be taken to be the extant Departmental development plans, namely; the Belfast Metropolitan Area Plan and the Antrim Area Plan.
- 9 When the Council's plan strategy is formally adopted, the local development plan will be the Council's adopted plan strategy and the extant Departmental development plan namely the Belfast Metropolitan Area Plan and the Antrim Area Plan read together. If there is a conflict between the Council's plan strategy and the extant Departmental development plan the conflict shall be settled in favour of the Council's adopted plan strategy.
- 10 When the Council has adopted its local policies plan, the local development plan will be the Council's adopted plan strategy and local policy plan as defined in Section 6 of the 2011 Act.

#### **SIZE OF COMMITTEE**

- 11 In line with the Department's guidance, which suggests that a Planning Committee should consist of between 20% and 50% of Council members

(depending on the size of the Council) and that there should be a quorum (e.g. 50% of committee members), it has been agreed that the Antrim and Newtownabbey Committee will be comprised of 12 members and the quorum for meetings will be 6 members.

The Chief Executive, the Director of Community Planning and Regeneration, the Head of Planning and other relevant Planning, Legal and Administration Officers will attend the Planning Committee meetings as required to do so. It is expected that the Head of Planning or their nominated deputy will attend all meetings.

### **FREQUENCY OF MEETINGS**

- 12 The Planning Committee of Antrim and Newtownabbey Borough Council will meet monthly. A schedule of meetings is included at Appendix 3. Meetings will be held in the Council Chamber at Mossley Mill, Carnmoney Road North, Newtownabbey, BT36 5QA.

### **ENFORCEMENT**

- 13 A Scheme of Delegation for the Planning function including Enforcement matters has been agreed by Antrim and Newtownabbey Borough Council and is included at Appendix 2.

In addition to those cases presented to the Planning Committee, the Head of Planning or his/her nominated Officer will prepare a quarterly report on enforcement including the progress of formal enforcement cases which will be circulated to all elected members, not just Planning Committee members (this will include; number of live cases, details of notices issued, prosecutions and any other information deemed relevant).

An enforcement strategy detailing how enforcement action will be dealt with will be developed and agreed by the Planning Committee.

### **SCHEMES OF DELEGATION**

- 14 Section 31 of the Planning Act (NI) 2011 requires each Council to introduce Schemes of Delegation. As referred to previously a Scheme of Delegation for the Planning function has been agreed by Antrim and Newtownabbey Borough Council and is summarised below;

- 15 The Planning (Development Management) Regulations (NI) 2015 state that an appointed officer cannot determine an application for planning permission where the application is made by the Council or an elected member of the Council, or the application relates to land in which the Council has an interest. Instead, these applications must be determined by the Planning Committee. The Scheme of Delegation agreed by Antrim and Newtownabbey Borough Council reflects these restrictions.

#### **REFERRAL OF DELEGATED APPLICATIONS TO THE PLANNING COMMITTEE**

- 16 The scheme of delegation agreed by Antrim and Newtownabbey Borough Council includes the provision for members (including those not on the Planning Committee) to request, where they consider it appropriate, that an application, which would normally fall within the Scheme of Delegation, can be referred to the Planning Committee for determination. In addition the Head of Planning can also refer any matter which he/she considers suitable for determination by the Planning Committee. Members of the public cannot directly request that an application be referred to the Planning Committee. Any referral request by a Council Member must be made in writing and must clearly specify the planning grounds on which the request is being made to ensure that applications are not unduly delayed.
- 17 The number and nature of applications referred to the Planning Committee will be reviewed on a regular basis.

#### **FORMAT OF PLANNING COMMITTEE MEETINGS**

- 18 Antrim and Newtownabbey Borough Council will operate its Planning Committee in line with its approved Standing Orders. In doing so the following procedural arrangements will apply:
- the Planning section will prepare a weekly document which will be circulated to all members (including those not on the Planning Committee). This will comprise of 2 key components;
    - a list of all valid applications for that week, as well as;
    - a list of those applications to be delegated to Officers under the agreed Scheme of Delegation.
  - all Planning Committee members should be sent the agenda 3 working days in advance of the meeting with a report on each application not delegated to Officers;



- Officers should prepare an addendum on the day of the meeting to report any updated information received that is required to inform a decision since the agenda was issued; and
- the Chairperson and Vice Chairperson of the Planning Committee along with relevant Officers should hold a briefing session with Planning Officers on each application to be considered in advance of the Planning Committee meeting.

19. The Planning Committee meeting will be presided over by the Chairperson and Vice Chairperson of the Planning Committee. Following the approval of the minutes of the previous meeting and apologies, elected members will be asked to declare any interests they have on the agenda items, which should be recorded in the minutes of the meeting. The elected member **must not speak** on the item and must leave the meeting for that item.

The only exception to this rule is in cases where the elected member is the applicant. In such circumstances, the member will declare his/her interest at the start of the meeting and will remove themselves from the decision-making process on the application. He/she may however speak as the applicant under the Public Speaking procedures.

20. The Planning section will prepare a report which will be circulated in advance. The application will be presented by a Planning Officer and a recommendation made on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown as appropriate.

- After the Planning Officer presents the report, elected members will have an opportunity to listen to speakers, ask questions of the Officer relating to the proposed development and debate the case. The Planning Committee then discusses the application before taking a vote (proposed and seconded followed by a show of hands) on whether or not to agree with the officer's recommendation. The Chairperson has a casting vote.
- Should a member wish to have their objection to a decision recorded this will be reflected in the minutes of the meeting. A recorded vote may also

be requested in certain circumstances whereby the names of members voting for and against the proposal will be recorded.

- Elected members can add conditions to a permission but they cannot amend the application itself (for example, by allowing a one-bedroom flat if the application is for a two-bedroom flat). Any additional conditions should be proposed and seconded before being voted on by members. Members should be aware that conditions can be tested at appeal and based on planning case law there are a number of requirements that they should therefore meet, namely that they should be necessary, relevant to planning and the development under consideration, enforceable, precise and reasonable in all other respects.

- 21 Members must be present for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.

#### PRE-DETERMINATION HEARINGS

- 22 In order to enhance scrutiny of applications for major development which may raise issues with particular sensitivity for a local area, Regulation 7 of the Planning (Development Management) Regulations (NI) 2015 sets out a mandatory requirement for pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department for call-in consideration, but that have been returned to a Council for determination). In such cases Antrim and Newtownabbey Borough Council's Planning Committee will hold a hearing prior to the application being determined.

In addition, the Planning Committee may also hold pre-determination hearings, at its discretion, when considered necessary, to take on board local community views, as well as those in support of the development. The intention is to give applicants and those who have submitted relevant representations the opportunity to be heard by the Planning Committee before it takes a decision. This will make the application process for major development more inclusive and transparent.

- 23 The scope to hold these hearings is likely to apply only to those applications for major developments. The Planning Committee will therefore judge when a significant body of relevant planning objections is a sufficient material

consideration to warrant a pre-determination hearing, taking account of:

- the relevance of the objections in planning terms;
- the extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
- the numbers of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.

- 24 Any hearing should take place after the expiry of the period for making representations on the application but before the Planning Committee decides the application. It will be for the Planning Committee to decide whether it wishes to have a hearing on the same day as the related planning application is determined by the Planning Committee or to hold a separate hearing. The scale and complexity of the planning issues will have to be considered. In holding a hearing the Planning Committee procedures can be the same as for the normal Planning Committee meetings (e.g. number of individuals to speak on either side, time available to speakers etc.). The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the Planning Committee decides to hold the hearing on the same day as it wishes to determine the application the report to elected members should also contain a recommendation.

#### **PUBLIC SPEAKING AT PLANNING COMMITTEE MEETINGS**

- 25 Antrim and Newtownabbey Borough Council has considered best practice models in other jurisdictions to determine the arrangements for public speaking at Planning Committees. The following procedures will apply when conducting Planning Committee meetings:

- Planning Committee meetings will be open to the public;
- Requests to speak should be received by the Council (in writing or by email) no later than 12.00pm (noon), two working days prior to the meeting setting out the planning reasons the speaker wishes to raise; any written information that the speaker wishes to circulate to members of the Committee **must** also be provided at this time. Any information received after this time **will not** be circulated. Speakers may fall within the groups listed below and all speakers must request to speak as outlined above. The speaking order will be as follows:

- Councillor not on the Planning Committee
  - Objectors: an objector against the application or their representative – only those objectors who have made written representations on the application being considered will be permitted to speak at the Committee
  - Supporters including Applicants: a supporter of the application including the applicant or their representative
- the Planning Committee should be provided with copies of the information supplied by those who will be speaking at the Committee.
  - other elected members not on the Planning Committee may attend and speak about an application but only Planning Committee members can vote;
  - elected members may speak for 3 minutes each, up to a maximum of 18 minutes.
  - members of the public (including agents/representatives etc.) for 3 minutes each;
  - in addition to elected members addressing the Planning Committee, two people from those objecting to the proposal and two people in support of the proposal (including the applicant) should be allowed to speak. Where there is more than two requests to speak, the 6 minutes should be shared between the speakers or they can appoint one representative;
  - the Planning Committee may seek clarification of those who have spoken on any issues raised by them but not enter into a debate with them;
  - no documentation should be circulated at the meeting to members by speakers;
  - applications where there will be speakers from the public should be taken first, as far as is practicable; and
  - Planning Officers can address any issues raised and the Planning Committee can question Officers;

## DECISIONS CONTRARY TO OFFICER RECOMMENDATION

- 26 The Planning Committee has to reach its own decision. Officers offer advice and make a recommendation. Planning Officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Planning Committee or its members. This is acceptable where planning issues are finely balanced as there should always be scope for members to express a different view from Officers. A Planning Committee can

accept or place a different interpretation on, or give different weight to, the various arguments and material planning considerations.

*Overturning recommendation to approve*

- 27 Any elected member who does not agree with the Officer's recommendation to approve an application can propose reasons for refusal, which need to be seconded by another member and then voted on. Any decision by the Planning Committee **must be based on proper planning reasons**. The Planning Officer should always be given the opportunity to explain the implications of the Planning Committee's decision. The reasons for any decisions which are made contrary to the Planning Officer's recommendation must be formally recorded in the minutes and a copy placed on the planning application file/electronic record.
- 28 Elected members who reject a planning application that Officers have advised them to accept, risk being overturned on appeal (to the Planning Appeals Commission), with the potential for costs awarded against the Council if no sound reasons for the decision have been given. The Chairperson should seek the views of Officers (including the Council's legal advisers) before going to the vote in terms of reasons for refusal that are contrary to an Officer's recommendation. Officers should endeavour to summarise what are considered to be the main reasons for refusal referred to by members during the debate and include advice on what would be reasonable and what would not be reasonable reasons for refusal.
- 29 If Officers consider that the suggested planning refusal reasons are reasonable and capable of being defended on appeal, members should vote on the reasons for refusal. If the view of Officers is that the reasons for refusal are either in whole or in part not capable of being defended then members should give consideration to deferring determination of the planning application until the next Planning Committee and ask for a further report (and/or site visit) to ensure it has all the relevant information it considers necessary to inform its decision. Advice and assistance should be sought from the Council's legal advisers, as necessary.
- 30 In the event of an appeal against a refusal of planning permission contrary to an Officer's recommendation, it is a matter for the Planning Committee to decide who should attend the appeal to defend the decision. The following options may be considered in such circumstances:

- the Planning Committee may require Planning Officials to prepare the case for written submissions and / or attend the appeal even if it is against their recommendation;
- the members who proposed and seconded a motion to refuse consent contrary to an officer's recommendation may be called as Council's witnesses;
- planning consultants or different Planning Officers than those who made the original recommendation may be appointed.

### ***Overturning recommendation to refuse***

- 31 If the Planning Committee decides to approve an application against an Officer's recommendation to refuse, the Planning Committee should be aware that, while there is no right of third party appeal, there is the possibility that the decision could be subject to judicial review. In such circumstances a recorded vote will be taken and the Planning Committee will decide, from amongst those members supporting the proposal who will defend the Committee's decision in court.
- 32 Written minutes will be recorded at all Committee meetings as well as oral recordings which will be published on the Council's website. All minutes taken at Committee meetings must accurately reflect the discussions and decisions taken during the meetings as these could be used as evidence should any complaints be made about how decisions were taken. Elected members may wish to consider taking their own notes on controversial applications.

### **DECISIONS CONTRARY TO LOCAL DEVELOPMENT PLAN**

- 33 Planning decisions should be taken in accordance with the local development plan (in so far as it is relevant to the application) unless material considerations indicate otherwise. Should a Planning Committee member propose, second or support a decision contrary to the local development plan they will need to clearly identify and understand the planning reasons for doing so, and clearly demonstrate how these reasons justify overruling the development plan. The reasons for any decisions which are made contrary to the development plan must be formally recorded in the minutes and a copy placed on the planning application file / electronic record.



## DEFERRALS

- 34 The Planning Committee can decide to defer consideration of an application to the next meeting for further information, further negotiations or for a site visit. Such a decision should be proposed, seconded and subject to a majority vote. Members of the Committee should be aware, however, that deferrals will inevitably have an adverse effect on processing times and will prolong future meetings. Members should therefore restrict themselves, where possible, to one deferral only. In addition, there should be clear reasons why a deferral is necessary.

## SITE VISITS

- 35 Members of the Planning Committee may need to visit a site to help them make a decision on a planning application (e.g. where the impact or effect of the proposed development is difficult to visualise from the plans or photographs, or the application is particularly contentious). Where required, they may be identified by Officers in consultation with the Chairperson or they may be asked for by Planning Committee members, but these should only be permitted where the benefit is expected to be of considerable value.
- 36 A Planning Officer or other appropriate Officer should contact the applicant/agent to arrange access to the site. Invitations should then be sent to members of the Planning Committee. Site visits are not an opportunity to lobby elected members or to be used to seek to influence the outcome of a proposal prior to the Planning Committee meeting. Members of the Planning Committee should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, they will not have the information provided by the Planning Officer, and, in some circumstances (e.g. where an elected member is seen with applicant or objector) it might lead to allegations of bias. It is recommended that only Planning Committee members, Officers, and other elected members (for the Council area) should be permitted to attend the site visit. Where possible, the full Planning Committee should attend site visits, unless there are good reasons (e.g. a member is already very familiar with the site). An administration officer or other relevant officer to the Planning Committee should record the date of the visit, attendees and any other relevant information.

- 37 Planning Officers should prepare a written report on the site visit which should then be presented to the next Planning Committee meeting at which the application is to be determined.

#### **TRAINING**

- 38 Elected members sitting on the Antrim and Newtownabbey Borough Council's Planning Committee have had the opportunity to attend the training provided by the Department and it is recommended that participating members continue to attend relevant training on planning matters as required and/or provided.

#### **NETWORK**

- 39 Antrim and Newtownabbey Borough Council would be supportive of a network of Planning Committee Chairpersons being established which would meet regularly to discuss matters of common interest.

#### **REVIEW OF DECISIONS**

- 40 On an annual basis members of the Planning Committee should inspect a sample of implemented planning decisions in order to assess the quality of decision-making. This should include a sample of decisions delegated to Officers to give assurance that the scheme of delegation is operating effectively and in line with the Council's views.

#### **LEGAL ADVISER**

- 41 Antrim and Newtownabbey Borough Council will appoint a legal adviser/s to support the planning function and it is intended that he/she/they will attend each Planning Committee meeting.







## **Scheme of Delegation: Delegation of Planning Applications, Enforcement and other Planning Matters (Revised April 2017)**

### **Introduction**

Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014 allows a Council Committee to delegate certain matters to an officer of the council. In relation to the scheme of delegation for planning applications, enforcement and other planning matters the person appointed by the Council to exercise delegated powers is the Head of Planning within the Council and those senior officers<sup>1</sup> nominated by this officer in writing.

### **Delegation of Planning Applications**

This scheme of delegation (as revised) for the determination of planning applications has been agreed by Antrim and Newtownabbey Borough Council and approved by the Department for Infrastructure. The scheme of delegation (as revised) is in accordance with Section 31 of The Planning Act (NI) 2011 and takes effect from 30 April 2017.

### **Part A – Planning Applications required under the Planning Act to be determined by the Planning Committee**

Statutory provisions within the Planning Act (NI) 2011 require that certain types of planning application must be determined by the Planning Committee. Accordingly the following categories of application cannot be delegated to officers:

- (a) An application that falls within the Major category of development;
- (b) An application for planning permission where the application is made by the Council or an elected member of the Council, and
- (c) An application relating to land in which the Council has an interest.

### **Part B – Delegated Planning Applications**

The Council has agreed that the person appointed is empowered to determine all planning applications that fall within the Local category of development whether for approval or refusal with the following exceptions:

- (a) An application made by an employee of the Council, their spouse, partner or close relative (mother, father, children);
- (b) An application that would introduce fundamental changes to a major application that has been determined by the Planning Committee;

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<sup>1</sup> For the purposes of this scheme of delegation a senior officer is defined as a Principal Planning Officer or a Senior Planning Officer employed by the Council.



- (c) An application which is a departure from the Development Plan and which is recommended for approval.
- (d) An application subject to objections from more than 2 postal addresses within the Neighbour Notification area or 5 objections from occupied properties in the wider area;
- (e) An application recommended for refusal, except where the refusal decision relates to a retrospective application where there is an Enforcement Notice in place or cases where information required to determine the application has not been submitted following a reasonable request;
- (f) An application which the Head of Planning considers should be considered and decided by the Committee; and
- (g) An application which is referred to the Committee by a Member of the Council. Any such referral must be made in writing to the Head of Planning within 21 calendar days of validation of the application and accompanied by a sound planning reason.

## **Delegation of Enforcement and other Planning Matters**

### **Part C – Enforcement**

As well as determining planning applications, the Council is also responsible for the enforcement of planning control and a range of other planning matters, including the processing of other planning consents.

The Council has agreed that all matters associated with the enforcement of planning control are delegated to the person appointed by the Council with the following exceptions:

- (a) The service of an Enforcement Notice, Listed Building Enforcement Notice, Stop Notice, Temporary Stop Notice, Breach of Condition Notice or Fixed Penalty Notice, except in circumstances where the person appointed considers the breach of planning control could result in immediate public danger or development which may result in permanent damage to the environment. Examples include: the demolition of, or works to, a listed building; the felling of protected trees; the demolition of a building in a conservation area; or the commencement of building operations without permission. The service of any such Notice will be reported to the next available Planning Committee for ratification;
- (b) The instigation of court proceedings with the exception of direct offences in relation to advertisement control, Tree Preservation Orders, Conservation Areas and Listed Buildings and prosecution for non-compliance with a Planning Contravention Notice and a Submission Notice; and
- (c) Any other enforcement matter which the Head of Planning considers should be considered and decided by the Committee.



## **Part D – Determination of other Planning Matters**

In relation to other planning responsibilities the Council has agreed that the following matters are also delegated to the person appointed:

- (a) The issuing of a certificate of lawful use or development;
- (b) The making of a non-material change to a planning permission;
- (c) The issuing of a correction notice; and
- (d) The screening of and determination decisions on development proposals required under the Environmental Impact Assessment or Habitats Regulations.

The Council has also agreed that the following matters are delegated to the person appointed subject to the same exceptions set out under Part B above:

- (e) Determination of any application for listed building consent;
- (f) Determination of any application for conservation area consent;
- (g) Determination of any application for advertisement consent;
- (h) Determination of any application to carry out works to a protected tree (i.e. a tree the subject of a Tree Preservation Order); and
- (i) Determination of any hazardous substance consent.

The Council has also agreed that the following matters are delegated to the person appointed in circumstances where awaiting the Planning Committee meeting could result in serious environmental or amenity damage arising:

- (j) The serving of a Provisional Tree Preservation Order; and
- (k) The affixing of a Building Preservation Notice

The use of these powers will be reported to the next available Planning Committee meeting for ratification.

## **Part E – Publicity**

The Council has made a copy of this Scheme of Delegation available on the Council's website at [www.antrimandnewtownabbey.gov.uk](http://www.antrimandnewtownabbey.gov.uk) and it is also available on request at the Council's offices in Mossley Mill and Antrim Civic Centre.

## **Part F – Review**

This Scheme of Delegation will be subject to review by the Planning Committee every 12 months or at any such time as requested by more than 50% of the members of the Committee.



Fermanagh & Omagh  
District Council  
Comhairle Ceantair  
Fhear Manach agus na hÓmaí

## **Scheme of Delegation: Delegation of Planning Applications, Enforcement and other Planning Matters**

The scheme of delegation for the determination of planning applications was agreed by Fermanagh and Omagh District Council at its meeting of 1 April 2015 following approval by the Department of the Environment for Northern Ireland on 1 April 2015. The approval is in accordance with Section 31 of The Planning Act (NI) 2011. The scheme of delegation takes effect from 1 April 2015.

### **Part A – Mandatory applications for determination by the Planning Committee:**

Statutory requirements require that certain types of application must be determined by the planning committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development;
- An application for planning permission where the application is made by the Council or an elected member of the Council, and
- The application relates to land in which the Council has an interest.

### **Part B – Delegated Applications:**

The appointed person within the Council is the Head of Planning and other officers nominated by the Head of Planning.

To determine all local development applications whether for approval or refusal with the exception of:

- Applications which are significant departures from the Development Plan and which are recommended for approval.
- Applications submitted by members of Council staff (or close relatives, that is, spouse, partner, child(ren), parent(s) or sibling(s) involved in the consideration of planning applications, including senior council staff.
- Applications attracting objections from statutory consultees, where the officer's recommendation is to approve.
- Applications which the Council considers should be referred to Committee for determination, a material planning reason (for example a reason relating to planning policy,) must be given for such a referral.
- Applications which the Head of Planning considers that the proposal merits consideration by the Committee. E.g. an application subject to an Enforcement Notice where the recommendation is to refuse permission
- A legal agreement is required.

### **Part C - : Delegation of Planning Consents, Certificates, Tree preservation Orders, other determinations and Enforcement**

As well as determining planning applications, the Planning Committee will also have to administer the enforcement of planning and the processing of other planning consents. **Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014** allows a Council committee

to delegate such functions to an officer of the council. The Planning Committee has endorsed this approach on 19 February 2015.

The following matters are delegated to the appointed officer:

- The serving of a provisional Tree Preservation Order.
- The investigation of formal planning enforcement proceedings through the issuing of enforcement notices, stop notices, temporary stop notices, fixed penalty notices, submission notices and planning contravention notices.
- Determination of any application for a certificate of lawful development.
- Determination of any application for listed building consent.
- Determination of any application for conservation area consent.
- Determination of any application for advertisement consent.
- Determination of any application to carry out works to trees.
- Determination of any hazardous substance consent.
- Applications for Non Material Changes.

#### **Part D - Publicity**

The Council has made a copy of this Scheme of Delegation available on its website at [www.fermanaghomagham.com](http://www.fermanaghomagham.com). Copies are also available on request for inspection at the Planning Offices in Enniskillen and Omagh and in the Townhall, Enniskillen and the Grange, Omagh.

#### **Part E – Review**

This Scheme of Delegation will be subject to review by the Planning Committee.



## **PLANNING COMMITTEE PROTOCOL AS AMENDED**

### **Size of the Planning Committee**

- 1.1 Fermanagh and Omagh District Council has resolved that its Planning Committee will have thirteen members. As previously recommended to the Committee, and in accordance with the Department's guidance, the quorum for the Committee will be 50% of the membership, that is, 7 members.
- 1.2 There will be no substitution of Members to the Committee; replacement of Members will be dealt with in accordance with the Council's Standing Orders.
- 1.3 The Planning Committee will be supported by relevant Council officers, as required including, but not limited to, the Chief Executive, the Director of Regeneration and Planning, the Head of Planning, Legal and Administration Officers. It is generally expected that the Head of Planning or their nominated substitute will attend all Committee meetings.
- 1.4 Environmental Health and other officers with specific technical expertise may also be required to attend Planning Committee meetings.

### **1.5 Frequency of Meetings**

The Council has determined that the Planning Committee will meet monthly, at 2pm on the third Wednesday of each month (with the exception of August). The Committee reserves the right to schedule additional meetings as required.

### **1.6 Format of Planning Committee Meetings**

Fermanagh and Omagh District Council will operate its Planning Committee in line with its approved Standing Orders. In doing so the following procedural arrangements will apply:

- A weekly list of all planning applications received will be sent to the full Council. This list will indicate those applications to be determined by the Planning Committee and those applications delegated to officers. Where an application is delegated to an officer, Councillors who are members of the Planning Committee can request the application be 'called in'. This should be done within 3 weeks from receipt of the application. An application on the weekly list may be called in by ONE Member of the Planning Committee.  
The call in request must be accompanied by a clear planning reason

such as planning policy issues, departure from the Area Plan etc.

- All Planning Committee members will be sent a detailed agenda 5 days in advance of the meeting with a list of all the applications to be presented at the meeting and the officers' recommendations. A report on each application outlining the assessment of the application and the reasons for the recommendation will be included for Committee members.
- After the agenda has been issued, there would be no circulation of additional information from any source in respect of planning applications for consideration at the Planning Committee.
- Officers will prepare an addendum to the agenda, or update any reports on the day of the meeting, to inform Members of any new material considerations not previously addressed in the reports.
- It is recommended that the Chair of the Planning Committee should hold a pre-meeting with relevant officers on each application to be considered in advance of the Planning Committee meeting.
- Planning Committee meetings will be open to the public.
- With effect from November 2016, in common with all other Fermanagh and Omagh District Council and Committee meetings, the proceedings of the Planning Committee will be audio recorded.

1.7 The Planning Committee meetings will follow a standard Agenda which should allow for inclusion of the following items:

- Notice of meeting
- Apologies
- Signing of Minutes
- Presentations from External Bodies
- Declaration of interests
- Schedule of Planning Applications
- Enforcement matters
- Development Plan issues

1.8 Councillors will be required to declare an interest in any item on the agenda at the beginning of the meeting and must leave the meeting for that item. Members will then be invited to return to the meeting and notified of the Committee's decision before consideration of the next item commences.

1.9 Fermanagh and Omagh District Council has resolved that it will not usually receive presentations from external bodies at the Planning Committee. However, on those occasions where the Committee deems it appropriate to receive a presentation on matters of interest relevant to the Committee, this will be accommodated as the fourth item on the Agenda after Declaration of Interests. Such presentations, including Members' Questions and Answers, should not exceed 20 minutes.

1.10 In presenting planning applications to Committee, the following procedures for each application will apply:

- (i) Introduction by planning officer.  
*The Planning Officer presents the application and makes a*



*recommendation on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown.*

- (ii) Representation on behalf of applicant, agent or supporter. (10 minutes)  
*The total time allowed for applicant, agent or supporter to address the Committee will not be more than 10 minutes unless the Committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. Such an extension would be at the discretion of the Chair of the Planning Committee.*

*If more than one supporter wants to speak, the Chair may ask the supporters to appoint a spokesperson to represent their views.*

*No documentation should be circulated at the meeting to members by speakers.*

*Nor should any new information (verbal or written) which has not previously been included as part of the application be introduced or circulated.*

- (iii) Members' questions to applicant, agent or supporter.

- (iv) Representations – Objectors (5 Mins)

*The total time allowed for objectors to address the Committee will not be more than 5 minutes unless the Committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. Such an extension would be at the discretion of the Chair of the Planning Committee.*

*If an objector speaks, the applicant should be allowed to respond if they wish, even if they have not registered to speak in advance.*

*If more than one objector wants to speak, the Chair may ask the objectors to appoint a spokesperson to represent their views.*

*No documentation should be circulated at the meeting to members by speakers.*

- (v) Members' questions to objectors

- (vi) Representations by Councillor(s) and other elected representatives (including MPs and MLAs) (5 Minutes)

*The total time allowed for representations by Councillors and other elected representatives will be 5 minutes, unless the committee on the day decide to extend the time allowed due to unusual or exceptional circumstances. Such an extension would be at the discretion of the Chair of the Planning Committee.*

- (vii) Planning Officer's comments

- (viii) Members' debate including advice from officers.
- (ix) Members' decision.

The Members take a vote on whether or not to agree with the officer's recommendation. The Chair has a casting vote.

The following options are available in relation to Members' voting:

- (a) Approve the application with conditions as recommended;
- (b) Approve the application with amendments to the recommended conditions;
- (c) Approve the application contrary to Officer's recommendations;
- (d) Refuse the application for the reasons recommended;
- (e) Refuse the application with additional, fewer or amended reasons;
- (f) Refuse the application contrary to Officer's recommendations;
- (g) Defer the application with a direction for additional information or clarification; or for a Members' site visit.

Members must be present for the entire item, including the officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.

Members can add conditions to a permission but cannot amend the application. Any additional conditions should be proposed and seconded before being voted on by members. Members should be aware of the legal tests conditions need to meet if challenged - they should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. Planning officer comment should be invited, as necessary.

- 1.11 The Committee can defer consideration of an application to a subsequent meeting for further information, further negotiations or a site visit. Deferrals have an adverse effect on processing times, and the applicant can lodge an appeal after a period of time if the Council has not made a decision. The Committee will therefore generally defer an application only once. The Member proposing a deferral must provide clear reasons as to why a deferral is necessary.
- 1.12 The deadline for anyone wishing to request 'Speaking Rights' to address the Planning Committee is 5.00 pm on the Monday immediately before the Committee.  
In order to request speaking rights for a particular planning application, please email your request to: [democratic.services@fermanaghomagh.com](mailto:democratic.services@fermanaghomagh.com) or telephone 0300 303 1777 extension 20203 or 20207. **These are the only contacts through which Speaking Rights may be requested.**

Those seeking speaking rights should preferably include the planning

application reference number in their request. Individuals can only speak to the Committee if they have submitted a written response to an application.

The Chairman may:

- (a) Suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting: or
- (b) Vary the order of representations if he/she feels that it is convenient and will assist the Committee in dealing with the matter, provided that it will not cause prejudice to the parties concerned.

1.13 In lieu of speaking, Council members and members of the public may submit representations in writing for consideration by the Committee. The deadline for anyone wishing to submit such written representations is 5.00 pm on the second day prior to the meeting. Written representations will be reported to the Committee and any new material considerations not previously addressed in the reports will be highlighted and if necessary, circulated in a report on the day of the meeting.

1.14 If a Council Member is unable to attend the Committee and submits representations in writing, such representations will be read out at the Committee provided that the written representations are no more than 300 words, and provided that there is sufficient time within the 5 minutes allocated for council and other elected member representations.

1.15 **Decision Contrary to Officer Recommendations**

Many planning decision are finely balanced and the Planning Committee will come to its own conclusions, following debate and taking into account all material planning considerations. This Committee decision may differ from the recommendation of the officer. Where the Committee takes a different decision, it must be backed by sound, clear and logical planning reasons, linked to planning policy. The Head of Planning and Planning Officers will have the opportunity to explain the implications of the Planning Committee's decision. Consideration will need to be given to whether such decisions will be capable of being defended on appeal to the Planning Appeals Commission with the potential for award of costs against the Council. The reasons for any decision which are made contrary to the Planning Officer's recommendation must be formally recorded in detail in the minutes and a copy placed on the planning application file / electronic record.

1.16 Where Members reject a planning application that officers have advised them to accept, the Chairman should seek the views of officers (including the Council's legal advisers) before going to the vote in terms of reasons for refusal.

In such circumstances, officers should endeavour to summarise what are considered to be the main reasons for refusal referred to by Members during the debate and advise what would be reasonable and unreasonable reasons for refusal.

If officers consider that the suggested planning refusal reasons are reasonable

and capable of being defended on appeal, Members should vote on the reasons for refusal. If in the view of officers, the reasons for refusal are either in whole or in part not capable of being defended, then Members should give consideration to deferring determination of the planning application until the next Planning Committee and ask for a further report (and / or site visit) to ensure it has all the relevant information it considers necessary to inform its decision.

Advice and assistance should be sought from the Council's legal advisers, as necessary.

- 1.17 Deferrals of decision making can have significant impacts on decision times. Deferral of a decision to a later committee meeting has generally been used as a period of reflection in a situation where the committee is minded to refuse a proposal against an officer recommendation to approve. It allows the officer the time to draw up refusal reasons in line with the Committee's debate and decision for agreement at a further meeting. Deferrals should be an exception.
- 1.18 If the Planning Committee decides to approve an application against an officer's recommendation to refuse, the Planning Committee should be aware that, while there is no right of third party appeal, there is the possibility that the decision could be subject to judicial review. In such circumstances a recorded vote will be taken and the Planning Committee will decide, from amongst those members supporting the proposal who will defend the Committee's decision in court.
- 1.19 **Pre-Determination Hearings**  
The Planning Committee has a mandatory requirement to hold Pre-Determination Hearings for those major applications which have been referred to the Department for call-in consideration, but have been returned to the Council for determination. The Council's planning committee will therefore have to hold a hearing prior to the application being determined. In addition, the Council may also hold pre-determination hearings, at its own discretion, where it considers it necessary, to take on board local community views, as well as those in support of the development.
- 1.20 The intention is to make the application process for major applications more inclusive and transparent by giving applicants and those who have submitted representations, the opportunity to be heard by Council before it takes a decision.
- 1.21 It will be a matter for the Planning Committee to judge when a Pre-Determination Hearing is appropriate, taking account of the relevance of the objections in planning terms, the complexity of the application and level of pre-application community consultation.
- 1.22 When holding a Pre Determination Hearing the procedures will be the same as those for normal Planning Committee meetings. The Planning Officer will

produce a report detailing the processing of the application to date and the planning issues to be considered. The number of individuals to speak on either side, time available etc will be agreed prior to the hearing.

If the Planning Committee decides to hold the hearing on the same day as it wishes to determine the application, the Planning Officer's report should also contain a recommendation.

### **1.23 Site Visits**

It is recognised that, on occasions, Members of the Planning Committee may need or wish to visit a site to help them make a decision on a planning application. For example, the proposal may be difficult to visualise or the application may be particularly contentious. The purpose of a site visit is a fact finding exercise during which no debate about the merits of the case should arise.

1.24 Site visits should be an exception as they are time consuming and expensive. If required, they should be identified by planning officers in consultation with the Chairman prior to the planning committee meeting at which the application is scheduled to be determined. Site visits should only be carried out where there are clear benefits.

1.25 Where a site visit has been agreed, the Planning Committee clerk should contact the applicant/agent to arrange access to the site. Invitations will be limited to Members of the planning committee and Council Planning Officers. Site visits are not an opportunity to lobby Councillors or be used to seek to influence the outcome of a proposal prior to the planning Committee Meeting.

1.26 Councillors should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, they will not have the information provided by the planning officer, and, in some circumstances, it may lead to allegations of bias.

1.27 It is recommended that the full Planning Committee should attend site visits, unless there are exceptional reasons. The clerk to the planning committee should record the date of the visit, attendees and any other relevant information.

1.28 The planning officer should prepare a written report on the site visit which should be presented to the Planning Committee meeting at which the application is to be determined.

### **1.29 Legal Adviser**

The Department recommends that the Planning Committee has access to legal advice on planning matters and has suggested that it would prefer legal attendance at each Planning Committee meeting. Fermanagh and Omagh District Council has resolved to have legal representation at each Planning Committee meeting.

### **1.30 Review of Decisions**

It is recommended that on an annual basis, Members should inspect a sample of implemented planning decisions in order to assess the quality of decision making. This should include a sample of decisions delegated to officers to give assurance that the scheme of delegation is operating effectively and in line with the Council's views.

### **1.31 Departmental Comments**

Members are advised that the Department strongly recommends that Councillors sitting on Planning Committees should be required to attend relevant training on an ongoing basis. It also recommends that the Planning Committee chairs should receive separate, additional training in relation to their roles. The Department suggests that a network of Planning Committee Chairs should be established and meet regularly to discuss matters of common interest.

### **1.32 Confidential Matters**

In the event that the Planning Committee is required to go "into Committee" to consider confidential matters relating to a planning application, those parties with a direct interest in the application who have requested speaking rights in accordance with the Protocol, will be required to sign an undertaking confirming that they will respect the confidentiality of the meeting and the information discussed therein.

### **1.33 Good Practice Guide for Agents/Applicants**

Fermanagh and Omagh District Council has developed a Good Practice Guide for Agents/Applicants (Appendix A). The rationale behind the development of this Guide is to provide advice and guidance to applicants and agents involved in the planning process to help deliver an efficient development management system, making best use of the Council's limited resources.

The objective is to build understanding, establish good practice and ensure that a full and robust process is undertaken, thus minimising potential delay in the delivery of the planning function, particularly in relation to local planning applications.

The guide sets out the progress of applications through the development management system and identifies the role/ responsibilities of Council planning staff and applicants / agents at each stage of the process in order to deliver good quality planning decisions in an efficient manner and at least cost.

The Good Practice Guide for Agents/Applicants takes effect from 1 December 2016 and is an integral component of the Council's Planning Committee Protocol.



**Mid & East  
Antrim**  
Borough Council

# Protocol for Operation of Planning Committee

## Revision record

Version	Date	Status
1	24 March 2015	Implemented for new Council
2	3 July 2017	Revisions agreed by Council
3	5 June 2018	Revisions for AGM



## Protocol for Operation of Planning Committee Mid and East Antrim Borough Council

### Preliminary Matters

- A weekly list of all new planning applications indicating applications to be determined by the Planning Committee and applications delegated to Officers will be circulated to all Councillors.
- The Planning Committee will determine those planning applications which have not been delegated to officers as part of the scheme of delegation.
- All Planning Committee members will be sent the agenda five working days in advance of the meeting with a report on each application to be considered **by the Committee. This is in line with Council's Standing Orders.**
- If necessary, officers will prepare an addendum on the day of the meeting to report any up-dates since the agenda issued.
- The Chair and Vice Chair should hold a pre-meeting with planning officers in advance of the Planning Committee meeting to review the agenda.
- Planning Committee meetings should be open to the public.
- Substitute members will not be permitted to deputise.
- The protocol will be reviewed yearly, in advance of the Council's Annual General Meeting.

## PART A - Planning Committee

### 1. Size of Committee

The Planning Committee will comprise of a maximum of 12 Members. The Quorum will be as set out in the Councils Standing Orders 2.34 to 2.38.

### 2. Frequency of Meetings

Planning Committee will normally meet once a month. Meetings will be scheduled for the Thursday following Full Council, commencing at 10am, with a guillotine at 1pm. Additional meetings will be at the discretion of the Chairman with the consent of the Committee. Planning Committee meetings will be held in the Council Chamber, The Braid, Ballymena.

### 3. Terms of Reference

- To exercise the planning functions of the Council where these are not delegated to officers as identified in the approved scheme of delegation.
- To determine planning applications or to decide upon or vary appropriate conditions, limitations, terms or other restrictions upon any approval, consent or permission granted and/or agree reasons for refusing consent.
- To approve the draft Local Development Plan Strategy and Local Policies Plan prior to ratification by Full Council.
- To consider consultation responses on behalf of the Council on planning matters.

### 4. Remit of Planning Committee

#### i. Development Management

The Planning Committee is to consider planning applications made to the council as the local planning authority and decide whether or not they should be approved. The decisions of the Planning Committee in determining planning applications will be taken on behalf of the Council and will not go to the full council for ratification.

#### ii. Development Plan

The Planning **Committee's** role in relation to Development Plan is to approve the Local Development Plan before it is passed by resolution of the Full Council. The Committee will also have an oversight role to ensure that the Local Development Plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that the plan is reviewed every 5 years, giving consideration to whether there is a need to change the plan strategy or zonings, designations and policies.

#### iii. Enforcement

Enforcement activities will be delegated to planning officers, who can use their professional judgement on what enforcement action to take, if any, to address breaches of planning control.

The Planning Committee can also be informed of progress on enforcement cases and request a report from officers on any enforcement matter. Officers will exercise discretion when discussing sensitive enforcement matters at the Planning Committee to ensure possible future legal proceedings are not prejudiced. Enforcement issues will therefore be discussed in closed committee.

## 5. Format of Planning Committee Meetings

1. Notice of meeting
2. Apologies
3. Declaration of interests
4. Introduction of Members and Officers
5. Approval of minutes of the previous meeting
6. Schedule of Planning Applications
7. Pre Application Hearings
8. Development Plan issues
9. Planning Appeals
10. Correspondence / Up-date for Members
11. Delegations/Presentations
12. Enforcement matters

## PART B - Protocol for considering planning applications

### 1. Chair introduction

The Chair will explain the decision making process, that each planning application will be discussed in turn, beginning with a summary of main planning issues from Planning Officer, followed by public speaking rights, then Members discussion and vote.

Any Elected Member sitting on the Committee that declare any interests in a planning application must not speak on that item and must leave the Council Chamber for that item.

### 2. Planning Officers Presentation

The Planning Officer presents the application and makes a recommendation on whether the application should be approved, approved with conditions or refused. This should comprise of a non-technical summary, including a visual presentation.

### 3. Speaking Rights

Anyone can register to address the Planning Committee to speak on a planning application, even if they have not formally made a representation on the planning application.

Speaking rights are limited to those planning applications, listed on the Agenda for consideration at the up-coming Planning Committee.

Those wishing to address the Committee must register their wish to do so with the Councils Chief Administrative Officer / Committee Clerk by 12 noon two working days before the meeting.

Committee Members will have an opportunity to question each person making a representation, following their presentation - Members questions should be limited to seeking clarification on matters raised in the presentation.

#### Members of Mid and East Antrim Borough Council

The total time allowed for representations by council members in support of an application will be 4 minutes, unless the committee on the day decide to extend the time allowed due to unusual or exceptional circumstances. If more than one member registers to speak, the allocated 4 minutes will have to be shared.

The total time allowed for representations by council members against an application will be 4 minutes, unless the committee on the day decide to extend the time allowed due to unusual or exceptional circumstances. If more than one member registers to speak, the allocated 4 minutes will have to be shared.

#### MPs/MLAs

MPs and MLAs will be permitted to address the committee when they have been asked to represent their constituents. The total time allowed for representations from an MP or MLA will not be more than 4 minutes each unless the committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances.

#### Objectors

If an objector speaks the applicant should be allowed to respond even if they have not registered to speak in advance. The total time allowed for objectors to address the Committee will not be more than 4 minutes unless the Committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. If more than one objector registers to speak, the allocated 4 minutes will have to be shared.

#### Representation on behalf of applicant, agent or supporter.

The total time allowed for applicant, agent or supporter to address the Committee will not be more than 4 minutes unless the Committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. If more than one person registers to speak in support, the allocated 4 minutes will have to be shared.

#### Statutory Consultees

Statutory Consultees will be permitted to address the Committee when they are in attendance. The total time allowed for representations from a Statutory Consultee will not be more than 4 minutes, each, unless the Committee decide on

the day of the meeting to extend the time allowed due to unusual or exceptional circumstances.

No documentation should be circulated at the meeting to members by speakers.

In lieu of speaking, council members, MPs, MLAs and members of the public may submit representations in writing for consideration by the Committee. Written representations will be reported to the Committee and circulated on the day of the meeting.

#### 4. Planning Officers comments.

The Planning Officer should be given an opportunity to clarify any outstanding matters raised.

#### 5. Members Debate

Chair manages the debate, bringing in Officers for clarification if necessary and Solicitor if legal opinion is required.

Members must be present in the council chamber for the entire item, including **the Officer's introduction and update**; otherwise they cannot take part in the debate or vote on that item.

#### 6. Chairman Closes Debate

The Chairman uses his judgement to close the debate following discussion. In the event of a proposal coming from the floor prior to the Chair requesting a proposer, the Chairman will clarify whether members wish to debate the matter further.

#### 7. Members Decision / Motions

The Chair seeks a proposer and seconder for Officers recommendation. If no seconder, motion fails. The Committee must vote on each motion

#### MOTIONS

The following are examples of how a Member may wish to propose a motion:

1. Move the officer recommendation (approval/Refusal).
2. Move the officer recommendation plus additional condition or design change - delegated to officer.
3. Delegate authority to officers to approve subject to clarification on a technical issue.
4. Move contrary to officer recommendation with either:
  - a. Reasons for refusal
  - b. Reasons for approval - delegate authority to officers to agree conditions.
5. Deferral

- a. Site visit (when returned to committee - everything up for reconsideration).
- b. Specific issue where additional information is required - when returned to committee only the subject matter of the deferral will be considered -all other matters previously considered will not be considered again.

Members can add conditions to permission but cannot amend the application. Any additional conditions should be proposed and seconded before being voted on by members. Members should be aware of the legal tests conditions need to meet if challenged - they should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. Planning Officer comment should be invited, as necessary.

Any Member who does not agree with the Officer recommendation to approve an application can propose reasons for refusal, which will need to be seconded by another Member and then voted on.

The Committee is not necessarily bound to agree with a Planning Officer's recommendation; it has to reach its own decision. Officers' views, opinions and recommendations may on occasion be contrary to the views, opinions or decisions of the committee or its Members. This is acceptable when based on sound planning considerations, which must fairly and reasonably relate to the application concerned. These considerations include, for example, planning policy, landscaping, impact on the neighbourhood, planning history etc. The Committee or its Members can accept or place different interpretation on, or give weight to, the various arguments and material planning considerations before the Committee. Planning issues are finely balanced and Members may seek the comments of the Officers when proposing reasons that are contrary to a recommendation.

## 8. Vote

The Planning Officer/Legal Advisor should always be given the opportunity to explain the implications of the Planning Committees decision, prior to the matter being voted on.

Members need to raise hands i.e. all those in support of the motion. The Chair has a casting vote. The motion will either be carried or defeated. If carried, for the benefit of the public the Chair will explain that the application has been approved or refused. If defeated, the Chair will ask for an alternative motion. A decision must be made on an affirmative.

**The reasons for any decision which are made contrary to the Planning Officers' recommendation must be formally recorded in the minutes and a copy placed on file.**

Once a decision of the Planning Committee has been made, a planning official will be available to present the corporate view of the Planning Committee should it be required at Planning Appeals, Independent Examinations and other Hearings.

9. The Chairman may:

- (a) **Suspend the public's right to speak if he/she considers it necessary** to maintain order at the meeting; or
- (b) Vary the order of representations if he/she feels that it is convenient and will assist the committee in dealing with the matter provided that it will not cause prejudice to the parties concerned.

## PART C: Site Visits and Pre Determination Hearings

### 1. Site Visits

It is recognised that, on occasions, members of the Planning Committee may need to visit a site to help them make a decision on a planning application. For example, the proposal may be difficult to visualise or the application is particularly contentious.

Site visits should be an exception as they are time consuming and expensive. If required, they should be identified by Planning Officers in consultation with the Chair prior to the Planning Committee Meeting at which the application is scheduled to be determined. Site visits will only be carried out where there are clear benefits.

The Planning Committee Clerk should contact the applicant / agent to arrange access to the site. Invitations will be limited to members of the Planning Committee and Council Planning Officers. Site visits are not an opportunity to lobby councillors or be used to seek to influence the outcome of a proposal prior to the planning committee meeting.

Councillors should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, they will not have the information provided by the Planning Officer, and, in some circumstance, it might lead to allegations of bias.

Attendance of site visits is optional, but it is recommended that the full Planning Committee should attend site visits, unless there are exceptional reasons. The Clerk to the Planning Committee should record the date of the visit, attendees and any other relevant information.

The Planning Officer should prepare a written report on the site visit which should be presented to the Planning Committee Meeting at which the application is to be determined.

### 2. Pre Determination Hearings

The Planning Committee has a mandatory requirement to hold Pre- Determination Hearings for those major applications which have been referred to the Department



for call-in consideration, but have been returned to the council for determination. **The council's** Planning Committee will therefore have to hold a hearing prior to the application being determined. In addition, councils may also hold pre-determination hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support of the development.

The intention is to make the application process for major applications more inclusive and transparent by giving applicants and those who have submitted representations the opportunity to be heard by council before it takes a decision.

It will be a matter for the Planning Committee to judge when a Pre-Determination Hearing is appropriate, taking account of the relevance of the objections in planning terms, the complexity of the application and level of pre-application community consultation.

When holding a Pre Determination Hearing the procedures will be the same as the normal Planning Committee meetings. The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. The number of individuals to speak on either side, time available etc will be agreed prior to the hearing. If the Planning Committee decides to hold the hearing on the same day as it wishes to determine the application the Planning Officers report should contain a recommendation.



**Mid & East  
Antrim**  
Borough Council

# SCHEME OF DELEGATION

**PLANNING DEPARTMENT - EXTRACT**  
Revision 3 Agree by Council AGM 5 June 2018

## **Scheme: Delegation of Planning Applications and Enforcement**

The scheme of delegation for the determination of planning applications has been agreed by Mid and East Antrim Borough Council and approved by the Department of the Environment for Northern Ireland. The scheme of delegation is in accordance with Section 31 of The Planning Act (NI) 2011 and takes effect from 1 April 2015.

### **Part A - Mandatory applications for determination by the Planning Committee:**

Statutory requirements require that certain types of application must be determined by the planning committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development;
- An application for planning permission where the application is made by the council or an elected member of the council, and
- The application relates to land in which the council has an interest.

### **Part B - Delegated Applications:**

The appointed person is the Head of Planning within the Council and those nominated by this officer.

To determine all local development applications whether for approval or refusal with the exception of:

- Applications attracting a local objection raising significant material planning considerations.
- Applications which are significant departures from the Development Plan and which are recommended for approval.
- Applications submitted by members of council staff at Planning Officer grade, and senior council staff at Head of Service grade and above.
- Applications attracting significant objections from statutory consultees, where the officer's recommendation is to approve.
- Applications where the Head of Planning considers that the proposal merits consideration by the Committee.
- A legal agreement is required.

## **Part C - Development Plan, Enforcement and Determination of Other Matters**

As well as determining planning applications, the Council will also have to administer the enforcement of planning and the processing of other planning consents. **Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014** allows a council committee to delegate to an officer of the council.

**The Planning Committee shall be required to consider and determine: -**

- Agree the Plan Strategy and Local Policies Plan for the Council area prior to ratification by the full council.
- The making of a Tree Preservation Order, where there are unresolved objections to the provisional order.
- Confirmation of a Provisional Tree Preservation Order.
- Determination of Completion Notices.
- Determination of Discontinuance Notices.
- Determination of a Revocation Orders
- Modification and Discharge of Planning Agreements.
- Designation, variation or cancellation of a Conservation Area.
- Consultations from the Department on regionally significant planning applications, regional planning policy and planning legislation.

**The following matters are delegated to the appointed officer:**

- The research, analysis, evaluation of information and drafting of Plan Strategy and Local Policies Plan, including representing the Council at the Independent Examination.
- To monitor the uptake of zoned land within the Local Policies Plan.
- The serving of a provisional Tree Preservation Order.
- The investigation of formal planning enforcement proceedings through the issuing of enforcement notices, stop notices, temporary stop notices, fixed penalty notices, and planning contravention notices.
- The formal reporting of planning enforcement matters to the Public Prosecution Service/Commencement of proceedings in a Magistrates Court, subject to the Chairman and Vice Chairman of the Planning Committee being informed.
- Application to the Courts for Injunctions, subject to the Chairman and Vice Chair of the Planning Committee being informed.
- Authority to apply to the Magistrates Court for a warrant to enter land and/or buildings in accordance with the powers provided in the Planning Act (Northern Ireland) 2011.
- Determination of any application for a Certificate of Lawful Development.

- Determination of any application for Listed Building Consent.
- Determination of any application for Conservation Area Consent.
- Determination of any application for Advertisement Consent.
- Determination of any application for carry out works to trees.
- Determination of any Hazardous Substance Consent.
- Applications for Non Material Changes.
- Determination of applications for Certificates of Alternative Development Value.
- Determination of applications for Urgent Crown Development and Crown Listed Building Consent.
- The Serving of a Temporary Listed /Building Preservation Notice.
- Determination of a Correction Notice.
- Discharge of Planning Conditions.
- Registering Notices and Charges in the Statutory Charges Register.
- To make determinations under Section 46 (Power to Decline).
- To make determinations under Section 48 (Power to decline).
- Determination of the type of planning appeal and amendments to Councils case during the course of the appeal, subject to consultation with the Chair of the Planning Committee as deemed appropriate by the Head of Planning.
- Negotiating Section 76 Planning Agreements including developer contributions on planning applications prior to a final decision being taken by the Planning Committee.
- The preparation of evidence on behalf of Council and defending planning decisions at Planning Appeals, Independent Examinations and other Hearings.
- Responding to minor consultations on planning matters on behalf of the Council.
- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 or any successor legislation, to
  - Issue screening opinions determining whether developments fall within Schedule (1) and (2).
  - Issue scooping opinions as to the information to be provided in any statement, and
  - Undertake appropriate consultations and notifications.
  - Determine whether an application should be accompanied by an Environmental Statement.
- In respect of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland 2015 or any successor, to
  - Consideration and approval of a waste management plan
- All other statutory powers connected to the exercise of the planning functions which have been transferred to Council and are not specifically listed shall be deemed to be delegated unless otherwise provided for within

this scheme.

#### **Part D - Publicity**

The council has made a copy of this Scheme of Delegation available on the councils website at [www.midandeastantrim.gov.uk](http://www.midandeastantrim.gov.uk) It is also available on request at Mid and East Antrim Borough Council, Planning Department, County Hall, 182 Galgorm Road, Ballymena



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## **Scheme of Delegation on Planning Matters**

Revised May 2016

## **Scheme of Delegation of Planning Applications**

The Scheme of Delegation for planning applications was agreed by Mid Ulster District Council at its meeting of *Thursday 23 April* following approval by the Department of the Environment for Northern Ireland on 1 April. The approval is in accordance with Section 31 of The Planning Act (NI) 2011. The Scheme of Delegation takes effect from Wednesday 1 April.

### **Part A – Mandatory applications for determination by the Planning Committee:**

Statutory requirements require that certain types of application must be determined by the planning committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development;
- An application for planning permission where the application is made by the council or an elected member of the council, and
- The application relates to land in which the council has an interest/estate.

### **Part B – Delegated Applications:**

The appointed person within the Council is the Planning Manager.

To determine all local development applications with the exception of:

- Applications which are significant departures from the Development Plan or planning policy and which are recommended for approval.
- Applications submitted by the Chief Executive, Directors, planning staff, or their close relatives (parents, partners, siblings, and children).
- Applications submitted by close relatives (parents, partners, siblings, and children) of an elected member of the council.
- Applications attracting valid planning objection including those from a statutory consultee, where the officer's recommendation is to approve.
- Any application referred to the Planning Committee by a Council Member, subject to a valid planning reason being provided by the Member for the deferral.
- All refusals of planning permission.
- Applications where the Planning Manager considers that the proposal merits consideration by the Committee, for example an application subject to an Enforcement Notice where the recommendation is to refuse permission.
- Applications where a legal agreement is required.



## **Part C – Publicity:**

On adoption of this scheme of delegation the council made a copy

- available on the councils website at [www.midulstercouncil.org](http://www.midulstercouncil.org).

- available at Mid Ulster Council Offices

Magherafelt Office

50 Ballyronan Road

Magherafelt

BT45 6EN

## **Scheme of Delegation of planning consents, certificates, tree preservation orders, enforcement of planning control and other determinations**

The Scheme of Delegation for planning consents, certificates, tree preservation orders, enforcement of planning control and other determinations was agreed by Mid Ulster District Council at its meeting of *Thursday 23 April*. The Scheme of Delegation takes effect from Wednesday 1 April and is in accordance with Section 7 (4) (b) of the Local Government Act 2011.

### **The Planning Committee shall be required to consider and determine:**

- the serving of a Tree Preservation Order;
- confirmation of a Provisional Tree Preservation Order.
- the serving of a Temporary Listing: Building Preservation Notice

### **Delegated planning consents, certificates, orders and other decisions:**

The Planning Manager is delegated the authority to:

- serve a Provisional Tree Preservation Order;
- determine an application:
  - to carry works to a Protected Trees;
  - for Hazardous Substance Consent;
  - for a Certificate of Lawful Use of Development and for Non Material Changes.
- make determinations under The Planning (Environmental Impact Assessment) Regulations (Northern Ireland)

All applications for listed building consent, conservation area consent and advertisement consent are delegated with the exception of the following which require determination by the Planning Committee:

- The application is made by the council or an elected member of the council.
- The application relates to land in which the council has an interest.
- The application is submitted by the Chief Executive, Director, planning staff, or close relatives (parents, partners, siblings, and children).
- The application has attracted valid planning objection including those from a statutory consultee, where the officer's recommendation is to approve.
- The application is recommended for refusal.

- Where the Planning Manager considers that the proposal merits consideration by the Committee.

The Planning Committee reserves the right to request a report for information purposes on any of these delegated matters.

### **Investigation of Breaches of Planning Control and Enforcement Action:**

The Planning Committee shall be required to consider and determine the serving of an Enforcement Notice, Stop Notice, and Listed Building Enforcement Notice, Listed Building Urgent Works Notice.

The Planning Manager is delegated the authority to:

- investigate all complaints of a breach of planning control and where appropriate may close a case on the grounds that a breach has not occurred or that it is not expedient or in the public interest to take action;
- serve of a Breach of Condition or Submission Notice;
- instruct the District Solicitor in the pursuit of legal action provided the Committee is aware of the action and may instruct the Planning Manager to cease or to hold in abeyance any legal proceedings.

The Planning Manager may in exceptional circumstances and where there is a risk to human health or safety serve an enforcement notice or stop notice.

The Planning Committee reserves the right to request a report for information purposes on any of these delegated matters.

PROTOCOL FOR  
THE OPERATION  
OF  
MID ULSTER  
DISTRICT COUNCIL  
PLANNING  
COMMITTEE

**Last updated by Mid Ulster District Council on 26<sup>th</sup> April 2018**

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## **PURPOSE OF THE PROTOCOL**

1. A protocol for the operation of Planning Committees was drafted by the Department of Environment in January 2015. Mid Ulster District Council (MUDC) has reviewed this document and has amended it to suit the needs of MUDC in the following way.
2. The purpose of the protocol for MUDC Planning Committee is to ensure that planning decisions are consistently taken, and are seen to be taken, in a fair and equitable manner. The protocol offers guidance for Councillors', applicants, agents and the general public
3. The protocol is not intended to change or alter the Standing Orders which apply to all Committee's or the Councillors' Code of Conduct.

## **REMIT OF THE PLANNING COMMITTEE**

### ***Development management***

4. One of the main functions of the planning committee is to consider applications made to the Council which are either major in scale, complex or controversial as set out in the adopted Scheme of Delegation, and decide whether or not they should be approved. In order to ensure that decisions are taken at the appropriate level, the decisions of the planning committee are taken under full delegated authority and the decisions of the committee will therefore not normally go to the full council for ratification.

### ***Development Plan***

5. The local development plans for the Mid Ulster district currently comprise the Cookstown Area Plan, the Dungannon and South Tyrone Area Plan and the Magherafelt Area Plan. These will remain the statutory development plans until replaced by the Mid Ulster Local Development Plan (LPD). The Department of Environment planning policies will also be retained as set out in the Planning Policy Statements and Strategic Planning Policy Statement, until such times as new policies are brought forward and adopted in the LDP.
6. Section 8 of the Planning Act (NI) 2011 requires MUDC to prepare a LDP which will comprise a plan strategy and a local policies plan. The strategy will set out the

objectives of MUDC in relation to the development land in the district, and the strategic policies for the implementation of those objectives. After the plan strategy has been adopted, a local policies plan will be prepared. This will set out the policy agreed by MUDC in relation to what type and scale of development is appropriate and where it should be located.

7. The local development will form the basis for public and private investment decisions, providing a degree of certainty as to how land will be developed. In law, planning applications should be determined in accordance with the development plan unless other material considerations indicate otherwise. Therefore, where land is zoned for a particular use, the MUDC Planning Committee should ensure it is reserved for that use: for example, an application for housing in an area zoned for housing should be approved unless the design and layout fails in terms of the environmental, open space and access standards, or its design and layout has a detrimental impact on the character of the area or neighbouring amenity.
8. The MUDC Planning Committee will approve the local development plan before it is passed by resolution of the full council. The Planning Committee will also ensure that the local development plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that it is reviewed every five years, giving consideration to whether there is a need to change the plan strategy or the zonings, designations and policies as contained in the local policies plan.

#### **SIZE OF COMMITTEE**

9. The MUDC Planning Committee consists of 16 elected members.

The Planning Manager and/or the Head of Development Management or Head of Development Plan and Enforcement will attend planning committee meetings as appropriate.

#### **FREQUENCY OF MEETINGS**

10. The Planning Committee will meet at least once every calendar month. Additional

meetings will be at the discretion of the Chair of the Committee with the consent of the Committee members. Dates for Planning Committee meetings are published on the Council's website.

## **SCHEMES OF DELEGATION**

11. There are two Schemes of Delegation. One relating to planning applications which is prepared under Section 31 of the Planning Act (Northern Ireland) 2011. The other scheme deals with planning consents, certificates, tree preservation orders, enforcement of planning control and other determinations and is prepared under Section 7 (4) (b) of the Local Government Act 2014. The purpose of the Schemes of Delegation is to set out those decisions which shall be made by the Planning Committee and those which are the responsibility of the Planning Manager. The Planning Manager is responsible for determining the vast majority of applications, however these tend to be applications that are smaller in scale, local in character and uncontroversial. Whereas the Planning Committee resolves those applications which are either major in scale, subject to dispute or could give rise to a conflict of interest. The MUDC Schemes of Delegation for the Planning function are available to view at [www.midulstercouncil.org](http://www.midulstercouncil.org) . The Scheme of Delegation will be reviewed on a regular basis, normally annually.

## **ENFORCEMENT**

12. The planning Committee will determine when an enforcement notice should be served and other enforcement decisions as laid down in the Scheme of Delegation. In addition to those cases presented to the Planning Committee for decision, a monthly report from officers on the enforcement performance (number of cases opened, cases closed, notices issued and convictions obtained) will be provided to members.
13. Enforcement matters will be discussed in the closed section of the Planning Committee meeting (i.e. In Committee) to ensure MUDC complies with the provisions of the Data Protection Act and to ensure that future legal proceedings are not prejudiced.
14. An enforcement strategy, detailing how enforcement action will be dealt with, was



agreed by the Planning Committee on 19<sup>th</sup> January 2016. This is available on the Council website.

## **REFERRAL OF DELEGATED APPLICATIONS TO THE PLANNING COMMITTEE**

15. The Scheme of Delegation agreed by MUDC includes the provision for members (including those not on the Planning Committee) to request, where they consider it appropriate, that an application which would normally fall within the Scheme of Delegation, to be referred to the Planning Committee for determination. In addition, the Planning Manager can also refer any matter which he considers suitable for determination by the Planning Committee. Members of the public cannot directly request that an application be referred to the Planning Committee. Any referral request **must** be made in writing.

## **FORMAT OF PLANNING COMMITTEE MEETINGS**

16. MUDC will operate its Planning Committee in line with its approved standing orders. In doing so, the following procedural arrangements will apply:
- the planning office will prepare a weekly list, which will be circulated to all members, of all valid applications that have been received;
  - all planning committee members will be sent the agenda at least 5 days in advance of the meeting with a report on each application to be decided;
  - if necessary, officers will prepare an addendum on the day of the meeting to report any updates since the agenda was issued; and
  - the Chair of the Planning Committee will hold a briefing session with planning officers on each application to be considered in advance of the planning committee meeting.
  - all committee items will be bookmarked and reports presented with visual aids to show the site and the proposal.
17. The meeting will be presided over by the Chair of the Planning Committee.

Following the approval of the minutes of the previous meeting and apologies, Councillors' will be given the opportunity to declare any interests they have on the agenda items, which should be recorded in the minutes of the meeting. Where a member has declared an interest in an application they cannot vote on that item and must either leave the meeting or sit in the public gallery for that item. However, they may make representations as per the normal speaking rights applicable to all councillors.

### **Consideration of Planning Applications**

18. The planning officer's report, which makes a recommendation on whether the application should be approved, approved with conditions or refused will be considered. Plans and photographs may be shown as appropriate.
19. In considering the report, members also have the opportunity to listen to speakers, ask questions of the officer and speakers, discuss and debate the case before taking a vote on whether or not to agree with the officer's recommendation. Members however should not engage in open conversation with speakers. They should normally only speak once on any application in order to ensure committee business is dealt with in a speedy manner. The Chair retains the discretion to curtail members where points are being made repeatedly. The Chair has a casting vote. Where the majority of members vote against an opinion to approve and in the absence of any other proposals, such as the deferral of the application, the application will be deemed to have been refused. The Planning Manager, based on the Committee's decision, will furnish the detailed reasons for refusal.
20. Members can add conditions to a permission but they cannot amend the application itself (for example, by allowing a one-bedroom flat if the application is for a two-bedroom flat). Any additional conditions should be proposed and seconded before being voted on by members. As conditions can be tested at appeal and they should, therefore, be (i) necessary, (ii) relevant to planning and the development under consideration, (iii) enforceable, (iv) precise, and (v) reasonable in all other respects. Therefore, where alterations to conditions are proposed, the Committee will seek the advice of the Planning Manager. Where new conditions are proposed by the Committee, the precise wording of the conditions can be left to the discretion of the Planning Manager.
21. Members cannot take part in a debate or vote on an item unless they have been

present for the entire item, including the officer's introduction and update.

22. Separate arrangement will be used to discuss special domestic or personal circumstances. Normally this will be held In Committee with members of the public and press excluded. An opportunity will be given for the applicant and objectors to present their case, but each separately. Once this has been done each party will be asked to leave in order for the Committee to discuss and determine the application.

### **PUBLIC SPEAKING AT PLANNING COMMITTEE MEETINGS**

23. The following procedures will apply to MUDC Planning Committee meetings:
  - planning committee meetings will be open to the public;
  - Requests to speak must be received by the council (in writing or by email) no later than 12.00pm two working days prior to the meeting. The request should state whether they wish to speak in support or in opposition to a planning application. Any written information that the speaker wishes to circulate to members of the committee **must** also be provided at this time. Any written information received after this time **will not** be circulated;
  - Where a speaker wishes to request that an application be deferred for consideration of additional information, then, at the time of the request they should set out their reasons for making such a request. The Planning Manager should review these requests prior to the meeting and, where the case warrants a deferral, the Planning Manager should ask the Committee to defer the item, noting any action to be taken.
  - Where a speaker has availed of the opportunity to speak to the Committee, they will not normally be given the opportunity to speak for a second time if the application is deferred and returned to Committee for final decision.
  - The order of speakers is a matter for the Chair, however, this will normally require objectors speaking before the applicant or their agent in order to allow the applicant the opportunity to respond to any issues raised. Thus, if members wish to speak, they should do so before the applicant/agent;
  - All parties speaking at Planning Committee may be asked questions by members or the Planning Manager;

- The Planning Committee will be provided with copies of the information supplied by those who will be speaking at the Committee;
- other elected members may attend and speak about an application but only planning committee members can vote;
- elected members and members of the public (including agents / representatives etc.) may speak for up to 3 minutes;
- Where more than one person wishes to speak on behalf of or against a development, they will be encouraged to elect a spokesperson and, in any event, required to share the 3 minutes speaking time.
- documentation not received in advance of the meeting will not be permitted to be circulated to members by speakers;
- Planning officers can address any issues raised and the planning committee can question officers;
- Any exception to normal speaking rights and procedures will be a matter for the Chair.

## **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

24. The Planning Committee will reach its own decision on applications put before it. Officers offer advice and make a recommendation. Planning officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Planning Committee or its members. This is acceptable where planning issues are finely balanced as there should always be scope for members to express a different view from officers. The Planning Committee can accept or place a different interpretation on, or give different weight to, the various arguments and material planning considerations.

### **Overturing recommendation to approve**

25. If a member does not agree with the officer recommendation to approve an application, they can propose reasons for refusal, which must be seconded by another member and then voted on. Any decision by the Planning Committee **must be based on proper planning reasons**. The Planning Manager (or their deputy) will be given the opportunity to explain the implications of the Planning Committee's decision. The reasons for any decisions which are made contrary to the planning officer's recommendation will be formally recorded in the minutes and a copy placed on the planning application file / electronic record.

26. As the refusal of a planning application that officers have recommended for approval may be overturned on appeal (to the Planning Appeals Commission), with the potential for costs awarded against MUDC, the Chair will seek the views of officers (including the council's solicitor) before going to the vote in terms of reasons for refusal that are contrary to officer recommendation. Officers will summarise what are considered to be the main reasons for refusal referred to by members during the debate and advise on what would be reasonable and what would not be reasonable reasons for refusal. Where appropriate the Planning Manager may also comment on whether a refusal on the proposed grounds is defensible, particularly at planning appeal.

27. The Planning Manager, in liaison with the Council Solicitor, will present the Committee's decision at planning appeal or in the courts or in any other forum.

#### **Overturing recommendation to refuse**

28. MUDC Planning Committee may decide to approve an application against the officer's recommendation to refuse, aware that while there is no right of third party appeal, there is the possibility that the decision could be subject to judicial review. However, before making such a decision, the advice of the Planning Manager should be sought. Where an approval is granted contrary to officer advice, the Planning Manager and Council Solicitor will present the Council's decision is defended in the courts or any other forum.

29. The minutes should, in so far as is possible, accurately reflect the discussions and decisions taken during the meeting(s) as these could be used as evidence should any complaints be made about how decisions are taken. Members can take their own notes on controversial applications.

#### **DECISIONS CONTRARY TO LOCAL DEVELOPMENT PLAN**

30. In general, planning decisions will be taken in accordance with the local development plan (in so far as it is material to the application) unless material considerations indicate otherwise. If a Planning Committee member proposes, seconds or supports a decision contrary to the local development plan they will have to clearly identify and understand the planning reasons for doing so, and demonstrate how these reasons justify overruling the development plan. The reasons for any decisions which are made contrary to the development plan

will be formally recorded in the minutes and a copy placed on the planning application file / electronic record. Before making such decisions the advice of the Planning Manager shall be sought.

## **DEFERRALS**

31. The Planning Committee can decide to defer consideration of an application to the next meeting for further information, further negotiations, or for a site visit. Before deferring an application the advice of the Planning Manager shall be sought and the purpose of the deferral clearly set out. Deferrals will inevitably have an adverse effect on processing times and therefore will be restricted to one deferral only. The Planning Manager may also ask the Committee to defer an application where it has been brought to his attention that there are errors or omissions in the case officer's report or where there is a matter worthy of further consideration.
32. Where an office meeting is to be held all councillors' will normally be informed and may make representations on behalf of objectors or applicants. However, where a member of the planning committee chooses to make representations then they will be required to declare a conflict of interest and will not be able to vote on the application at the next planning committee meeting at which the application is to be determined.

## **SITE VISITS**

33. On occasions, members of the Planning Committee may need to visit a site to help them make a decision on a planning application (e.g. where the impact or effect of the proposed development is difficult to visualise from the plans or photographs, or the application is particularly contentious). These visits will be undertaken on an exceptional basis where appropriate. Where required, they may be identified by officers in consultation with the Chair or they may be asked for by Planning Committee members.
34. The Planning Committee clerk will contact the applicant / agent to arrange access to the site. Invitations will then be sent to members of the Planning Committee. Site visits will not be used as an opportunity to lobby Councillors' or to seek to influence the outcome of a proposal prior to the Planning Committee meeting. Members will not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, or they may not have

the information provided by the planning officer and, in some circumstances (e.g. where a Councillor is seen with applicant or objector) it might lead to allegations of bias. Only Planning Committee members, officers, and local Councillors' should be permitted to attend the site visit. Where possible, the full planning committee should attend site visits, unless there are good reasons (e.g. a member is already very familiar with the site). The clerk to the planning committee will record the date of the visit, attendees and any other relevant information.

35. Planning officers will prepare a written report on the site visit which will then be considered at the next Planning Committee meeting at which the application is to be determined.

### **PRE-DETERMINATION HEARINGS**

36. Regulation 7 of the Planning (Development Management) Regulations (NI) 2015 sets out a mandatory requirement for pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department of Environment for call-in consideration, but that have been returned to a council for determination). In such cases MUDC Planning Committee will hold a hearing prior to the application being determined.

In addition, the Planning Committee may also hold pre-determination hearings, at its discretion, when considered necessary, to take on board local community views, as well as those in support of the development.

37. In the main MUDC will only hold pre-determination hearings where there is a mandatory requirement as the speaking rights at planning committee are adequate to deal with nearly all cases. An exception may be made for major developments having taken into account:
  - the relevance of the objections in planning terms;
  - the extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
  - the number of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.

38. The hearing will take place after the expiry of the period for making representations on the application but before the council decides the application. The Planning Committee will decide whether to have a hearing on the same day as the related planning application is determined by the Planning Committee or to hold a separate hearing.

In holding a hearing the Planning Committee procedures will be the same as for the normal planning committee meetings (e.g. number of individuals to speak on either side, time available to speakers etc.). The planning officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the hearing is to be held on the same day as the application is to be determined, the report to members will also contain a recommendation.

## **TRAINING**

39. Councillors' sitting on planning committees are required to attend relevant training on planning matters before they can sit on the Planning Committee.

## **LEGAL ADVISER**

40. The MUDC Planning Committee has access to its own in-house legal advice on planning matters.



# PLANNING APPLICATION PROCESS

