

SECTION 6 - PROCEDURE RULES FOR PLANNING MEETINGS

1. TRAINING

- 1.1. All members are required to attend training before sitting on the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~ and to attend as many training sessions as possible.
- 1.2. Only members who have attended planning training can be appointed as substitutes for members of the Development Management Committee, ~~and Welwyn Garden City Estate Management Appeals Panel~~

2. CALL-IN REQUESTS

- 2.1. Borough Councillors, or Town or Parish Councils may wish to request the call-in of sensitive or controversial planning applications that would otherwise be delegated to Officers for decision by the Development Management Committee.
- 2.2. Borough Councillors can submit a call-in request for any planning application in any ward.
- 2.3. Town and Parish Councils can only make call-in requests (through the submission of a "Major objection") for applications within their boundary, and the call-in provision does not apply to the following types of application: householder, lawful development certificates for proposed development or use, conservation area consent or listed building consent (where they relate to works that would not require planning permission, or where the works would be categorised as a householder, prior notification for householder extensions/works, or lawful development certificate for proposed development or use), advertisements outside of conservation areas, applications for prior notification for householder extensions/works under Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 2.4. Call-in requests should be made as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications. Call-ins should only be made once a valid application has been received.
- 2.5. Call-in requests must be made within 21 days of the publication of the application on the weekly list of planning applications sent to all Borough Councillors by email.
- 2.6. A call-in request must be based on the following circumstances:-
 - a) The application has attracted an unusually high level of public interest which might be reflected in the number of letters or emails, or a petition received in connection with the application.

- b) There has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.
- c) The application has wider ramifications of more than just local interest.
- d) Any other reasons based on individual merits and circumstances of the application.

2.7. A call-in should not be made in the following circumstances:-

- a) To resolve a disagreement between an applicant and the objector(s) to an application.
- b) Because the applicant considers that there is more likelihood of a grant of permission if the application is referred to the Committee for a decision.
- c) Because the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to the Committee for a decision.
- d) Because the applicant/objector does not agree with the advice given by a Planning Officer.

3. CALL-IN PROCEDURE

- 3.1. A Member or, local Town or Parish Council making a comment of support or objection and an associated call-in request must explain their reason(s) for doing so.
- 3.2. Call-in requests should be made by responding to the application notification email or weekly list of planning applications sent to all Members by email or by emailing or writing to the planning application case officer, Development Management Service Manager or Assistant Director (Planning).
- 3.3. Officers will acknowledge the call-in request. The Member or, local Town or Parish Council should check with the Development Management Service Manager if an acknowledgement is not received.
- 3.4. Where Officers do not consider that the call-in request accords with the call-in circumstances set out above, the Assistant Director (Planning), Development Management Service Manager, or other authorised Officer shall, in consultation with the Chairman of the Committee, notify the relevant Member or Town or Parish Council that the application will be determined under delegated powers.
- 3.5. A copy of the call-in request will be made available for public inspection on the Council's website and included within the report to Development Management Committee.

4. MEETING PROCEDURE

- 4.1. At the conclusion of the debate, the Committee must first undertake to vote on the recommendation set out in the officer report. If this recommendation

fails then the committee should set out its reasons for an alternative recommendation.

- 4.2. Any decision which is made which is contrary to the Officers' recommendations (whether for approval or refusal):
 - a) Should be subject to a detailed minute of the Committee's reasons and a copy placed on the application file.
 - b) Officers should be given the opportunity to explain the implications of the contrary decision before a vote is taken.
 - c) Applications which are refused contrary to Officer recommendations should be supported by clear and convincing reasons for refusal, taking into account material planning ~~or Estate Management~~ considerations.

When it is clear that the Committee wishes to overturn an officer recommendation, the Chair of the committee may use their discretion to move a short adjournment of the meeting in order that officers may assist members with the formulation of wording to support a reason for refusal or reason for approval.

- 4.3. Subject to sufficient explanation being provided by the Committee, to justify its decision, and where the full wording cannot be agreed during the Committee/Appeal Panel, Members will allow Officers to draft the precise wording of reasons for refusal or approval and refer the wording to the Chairman (or in the Chairman's absence the Vice-Chairman) for approval.
- 4.4. In the case of a condition(s) which Members wish to add or amend, Members should advise the Committee/Appeals Panel of the condition(s) that they wish to add or amend together with relevant wording. Where the full wording cannot be agreed during the Committee/Appeal Panel, Members will allow Officers to draft the conditions and refer the wording to the Chairman (or in the Chairman's absence the Vice-Chairman) for approval.
- 4.5. Members should have good and cogent reasons based on considerations which are material to the consideration of a planning application ~~or Welwyn Garden City Estate Management Scheme Appeal~~ before agreeing any deferment of its consideration to a subsequent meeting.
- 4.6. The Development Management Committee should review on a biennial basis a sample of implemented planning permissions including those determined under Officers' delegated powers to assess the quality of the decisions. Such a sample to include examples from a broad range of categories. Briefing notes should be prepared on each case and site visits arranged as appropriate. The review should allow the Committee to assess whether it gives rise to the need to review policies or practices.
- 4.7. Any planning applications submitted by a Member or Senior Officer of the Council or others on their behalf shall be considered by the Development Management Committee, irrespective of whether it conforms to policy or is

uncontentious, and the Member or Officer shall take no part in the processing of the application. The onus is on the Member or Officer to make clear their connection with the Council when submitting their application. The Council's Monitoring Officer should be notified of any such applications and will confirm within the report to the Committee that the application has been processed normally.

5. SITE VISITS BY MEMBERS

5.1 Members sitting on the Development Management Committee ~~and Welwyn Garden City Estate Management Appeals Panel~~ are presumed to have familiarised themselves with a site before the meeting at which they will be asked to determine the planning application in respect of it:

- a) Members should avoid being persuaded to carry out site visits at the instigation of, or in the company of a party to the planning application i.e. the applicant and/or their agent.
- b) If Members visit sites with other residents/objectors they should be careful, particularly if a Member of the Development Management Committee, not to offer a firm opinion on the matter and should follow the advice outlined in this Code.
- c) Members should remember they cannot enter onto private land without first obtaining the permission of the owner and should endeavour whenever possible to familiarise themselves with a site from a public viewpoint. Whilst a Member might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the Councillor is no longer impartial.

6. SITE VISITS BY DEVELOPMENT MANAGEMENT COMMITTEE

6.1. Site visits arranged by the Development Management Committee can cause delay and additional costs and should only be used if either of the following circumstances apply:

- a) The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by Officers.
- b) There is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- c) If it is appropriate to defer consideration of a planning application pending a site visit, the site visit should be carefully organised to ensure that its purpose, format and conduct are clearly established at the beginning and subsequently adhered to. The following guidance should be noted and adhered to at all times:
- d) The purpose of a site visit is to observe the location of the site and its relationship to adjoining properties and the area generally, where this is relevant. The purpose of the visit is not to discuss the issues with either the applicant or any other third party.
- e) It is for Members to decide whether they wish to view the site from other

property or undertake a wider visit to the immediate locality. The need will vary from case to case.

- f) If the applicant and/or the agent are in attendance at the site visit their only role is to bring to the attention of Members any aspect of the site or the surrounding area that they wish Members to familiarise themselves with. They should not be allowed to debate the merits of the proposal with Members.
- g) In instances where Members visit a neighbouring property the point made in paragraph (c) above also applies to other third parties.
- h) During the course of the site visit Members should not give any indication to the applicant or third parties of their opinion on the planning application.
- i) In order that the site visit runs as smoothly as possible the applicants and any other parties likely to be involved in the site visit will be advised of the above procedure prior to the visit whenever possible. If this is not possible the Officer will explain the procedures on the day.

6.2. The reasons for agreeing to a site visit should be fully minuted.

7. PUBLIC SPEAKING

7.1. In order that the Development Management Committee can carry out its business in a timely manner, the public speaking scheme permits applicants/agents for planning applications, local Town and Parish Councils, Ward Members and members of the public and others to address the Committee where the relevant item is under consideration, on the following basis:

7.2. The intention to speak must be registered with Governance Services by telephone or email no later than 5.00pm on the day before the meeting.

a) There shall be a maximum of the applicant/agent, one speaker for, one speaker against, any statutory body as defined in the Town and Country Planning (Development Management Procedure) Order 2015, a local town or parish council where they have made comments, for each planning application on the agenda.

b) There is a system to put supporters/objectors in touch to agree who should speak where more than one person has registered, but with the priority to the first person to register.

~~b~~c) One Ward Member will be allowed to speak for and against any application; where more than one Ward Member registers to speak for or against, subject to provision d) they will be requested to nominate one member to jointly make representations at the meeting.

e~~d)~~ In exceptional circumstances the Chairman of the Committee has discretion to allow more than one speaker for and/or one speaker against the application, if for example their reasoning is based on entirely separate grounds.

e~~e)~~ The time limit on speaking is a maximum of three minutes.

- e)f) Only applicants/agents and persons who have submitted written observations in accordance with (g) below will be allowed to speak.
- f)g) No written or other information may be circulated by applicants/agents, local Town or Parish Councils, Ward Members, members of the public or others during the meeting. Any late information must be submitted to the Planning Service or Governance Services by 5.00pm two days before the meeting in order for it to be circulated and considered by Members of the Committee.
- g)h) The Officer will be invited to comment on any views expressed by speakers. During the debate by Councillors, should clarification be required on any point made by speakers, this will be with the agreement of the Chairman.

8. WELWYN GARDEN CITY ESTATE MANAGEMENT SCHEME PROTOCOL

8.1. Subject to Rule 8.6 (below) decisions on estate management applications will be made by the Estate Management Scheme Manager.

8.1.8.2. When the Council receives an estate management application it will notify those people most likely to be affected by it, which is usually the occupiers of land/premises neighbouring the proposal.

8.2.8.3. Ward Members will be notified of estate management applications in a notification email and all estate management applications will appear on the weekly list of planning applications sent to all Members by email.

8.3.8.4. Members who would like to make any comments on the application should make them in writing to the case officer, Development Management Service Manager or Head of Assistant Director (Planning) before the call-in date given in the notification email or on the weekly list of planning applications.

8.4.8.5. ~~The~~Before making a decision the Planning OfficerEstate Management Scheme Manager will write a report on each application, setting out the decision which the Officer proposes to make, including reasons for the proposed decision. If the Officer's ~~recommendation~~ proposed decision is contrary to a Member's written comments, where practicable the application will be discussed with the Executive Member for Planning and the relevant Councillor before a decision is taken under delegated powers.

~~8.5. If, following discussions with the Executive Member, the view is taken to make a decision contrary to a Member's written comments, then a full explanation will be given in the Officer's report, setting out why the decision is not made in accordance with the Member's comments. If the Executive Member has to declare an interest in the application, then the discussions will take place with the Leader of the Council. The Member will be advised of the decision.~~

8.6. Estate Management applications by Members or Senior Officers will be discussed by a group of Planning Officersthe Estate Management Scheme Manager and the Assistant Director (Planning) before a decision is taken

under delegated powers. An application by the Estate Management Scheme Manager or Assistant Director (Planning) will be considered by the Executive Director (Place)

8.7. Appeals against the Any application for review of a decision to refuse of refuse Estate Management Consent where the applicant is not in agreement with the decision and negotiation has proved ineffective shall be dealt with by the Welwyn Garden City Estate Management Appeals Panel shall be considered by the Executive Director (Place). Any such application must be made within 3 months[X] days of notification of the decision. It should be noted that this does not allow reconsideration of the decision but only a review of whether the correct process has has been followed.

— A referral to a single arbitrator may only be made in the event of a dispute or disagreement between an owner and the council in connection with the administration or interpretation of the Estate Management Scheme. An arbitrator will not have authority to substitute the decision of the council with his or her own decision. The role of an arbitrator is limited to determining whether or not the council acted reasonably in refusing consent. Provided that the decision of the council falls within a band of possible decisions the arbitrator will have no authority to overturn the decision.

8.7. — The same arrangements for conduct, standards, dos and don'ts, the consideration of applications, site visits and public speaking in this Code also apply to the Appeals Panel. Due to the length of time between Panel meetings however Members may make a request for a site visit in writing to the Head of Planning before the meeting. Requests will then be discussed with the Chairman of the Panel and, where agreed, carried out prior to the meeting.

8.8. — No written or other information may be circulated by applicants/agents or members of the public during the meeting. Written submissions are restricted to those received in advance which will be circulated to Members before the meeting.

8.9. — Members of the Committee are not permitted to put questions to the speakers.