

## **OPERATING PROTOCOL**

### **BELFAST CITY COUNCIL PLANNING COMMITTEE**

#### **INTRODUCTION**

1. The following protocol has been developed for use by the Planning Committee ('the Committee'). It should be read alongside relevant provisions of the Council's Standing Orders and the Code of Conduct for Councillors and is not intended to replace either document. The key aims of the protocol are to ensure that:
  - a) Those who apply for, or object to, applications before the Committee are able to make informed representations and know the case which they have to meet; and
  - b) The Committee makes decisions in a sound, lawful, and transparent way and in a timely and efficient manner.

#### **REMIT OF THE COMMITTEE**

2. The primary roles of the Committee will include:
  - a) Exercising the Council's powers and duties in relation to local planning policies, plan strategies, the statement of community involvement and any other development plan documents;
  - b) Exercising the Council's powers in relation to listed buildings;
  - c) Consideration of applications for planning permission and development management in accordance with the Council's Scheme of Delegation;
  - d) Responding to consultations issued by the Department of Environment, or any other Department, in relation to planning matters;
  - e) Responding to consultations in relation to regionally significant or major applications to be determined by the Department of Environment;

- f) Scrutiny of the Council's delivery of planning functions, to include development management, enforcement, etc .

3. More detailed terms of reference can be found in XXXXXXXXXXXXXXXXXXXX.

### **FREQUENCY & TIME OF MEETINGS**

4. It is recommended that the Committee should meet every month; though there should be flexibility for additional meetings if required.

5. Dates and times will be advertised at least 5 days in advance on the Council website.

### **SCHEME OF DELEGATION**

6. As per the requirements of Section 31 of the Planning Act (NI) 2011 the Council will operate a scheme of delegation for planning outlining delegation both to the Committee and officers (this can be found at in the Council Constitution). The overall objective is to ensure that arrangements for decision-making on applications for local developments are efficient whilst ensuring that proposals that raise strong local views or sensitive issues for the local environment can be dealt with by elected members. Delegating determination of some planning applications to officers is also seen as a critical factor affecting the overall performance of the development management process as it helps ensure that decisions are taken at the most appropriate level, procedures are clear and transparent, costs are minimised and members have more time to concentrate on complex applications.

7. In respect of development management, authority is delegated to appointed officers for local, generally non-contentious, applications.

8. Enforcement activities are also delegated to appointed officers. However the Committee will receive periodical reports on enforcement activities.

9. Arrangements are also in place within the scheme that allow members to request that an application, which would normally fall within the scheme of delegation, be referred to the Committee for determination.

10. Major applications, applications made by the Council or an elected member of the Council, and applications relating to land in which the Council has an interest in, cannot be delegated.

## **FORMAT OF MEETINGS**

11. Committee meetings (dates, times and papers) will be published on the Council's website at least 5 calendar days in advance.
12. Papers will include the following:
  - a) Minutes of the previous meeting for approval as a complete record;**
  - b) Details of delegated applications for noting only by the Committee;**
  - c) Details of proposed pre-determination hearings;**
  - d) Details of non-delegated applications (including those brought back following deferral) for consideration by the Committee;**
  - e) Details of applications of regional significance with an impact upon the Council area in respect of which the Council is a statutory consultee or where it may wish to make representations;**
  - f) Papers relating to the development of policy.**
13. All members of the Council will receive a weekly list of all applications which are delegated to officers in accordance with the Council's Scheme of Delegation.
14. If a member wishes to request that a delegated application is brought before the Committee this must be done, in writing or by email, within 14 days of the application being publically advertised. Members should notify Democratic Services of this request stating clearly their reasons, which must be material considerations. Democratic Services will then liaise with the Town Solicitor's office and the authorised senior planning officer to determine whether the reasons which have been set out are material considerations and are of significant weight to allow the application to be referred to Committee. The Town Solicitor or authorised senior planning officer will advise the relevant member of their decision.
15. The Town Solicitor, in consultation with the authorised senior planning officer, may refer a decision back to Committee for the purposes of reconsideration.
16. A quorum, as outlined in the Council's standing orders, is required for the Committee to convene.

17. Councillors will be required to declare an interest in any item on the agenda at the beginning of the meeting and must then leave the meeting for that item. Members will then be invited to return to the meeting room and notified of the Committee's decision before the meeting recommences.
18. The Committee will discuss those applications that have not been delegated before taking a vote on one of the following options:
  - a) Approve the application with conditions as recommended;
  - b) Approve the application with amendments to the recommended conditions;
  - c) Refuse the application for the reasons recommended;
  - d) Refuse the application with additional or different reasons;
  - e) Refuse the application contrary to officers recommendations;
  - f) Return the application to officers with a direction for additional information or clarification.
19. The Committee can defer consideration of an application to a subsequent meeting for further information, further negotiations or a site visit. As deferrals have an adverse effect on processing times, and the applicant can lodge an appeal when the Council has not made a decision, the Committee will generally only defer an application once. The member proposing deferral must provide clear reasons as to why a deferral is necessary.
20. The Chair has a casting vote.
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.

## **PUBLIC REPRESENTATIONS**

22. Meetings of the Committee will be open to the public; however, numbers will be limited according to the meeting venue capacity and associated fire and safety regulations.
23. Seating for the applicant, objectors and statutory consultees will be reserved but only for the time in which their application is being considered.
24. Only those who have made written submissions in respect of the application shall be permitted to make oral representations before the Committee.

25. Each deputation who wishes to appear before the Committee shall submit a prepared statement in advance of the meeting in a format as required by the Council.
26. The statement, along with any other supporting information, must be provided in sufficient time which, unless circumstances dictate otherwise, shall be 2 weeks prior to the date of the Committee at which the matter is to be considered and the statement shall be included in the report to Committee. Speakers will not be permitted to circulate papers to members at the Committee meeting.
27. The Committee may agree to accept representations outside these procedures but will only do so in exceptional circumstances.
28. All Committee papers will be available online. However, access to some documentation may be restricted by virtue of the Council's publication policy. Information which is determined to be exempt by virtue of Schedule 6 of the Local Government (Northern Ireland) Act 2014 may be published where the Council considers that the public interest in disclosing same outweighs the public interest in maintaining the exemption.
29. Any documentation which is provided directly to any members of the Council in relation to a particular application must also be copied to the Committee clerk/planning section so as to ensure that the issues raised can be fully investigated by officers prior to the Committee hearing. Failure to do so may result in either the documentation being disregarded or the hearing being deferred.
30. Deputations shall be heard in the following order:
  - a. Statutory consultees<sup>1</sup>;
  - b. Objectors and/or their representatives;
  - c. Applicant and/or their representatives and/or those supporting the application.
31. Statutory consultees shall only be invited to attend Committee where they have objected to an application. If a member requires the attendance of a statutory consultee in other circumstances, this must be done at least one week in advance of the Committee meeting.
32. Deputations, unless otherwise agreed in advance by the Committee, shall consist of no more than 3 persons. Where there are more than 3 objectors or groups of objectors they will be required to arrange a single deputation to express their representations.

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<sup>1</sup> As per Articles 13 &14 and Schedule 3 of the Planning (General Development Procedure) Order (Northern Ireland) 2015

33. Deputation shall be confined to the presentation of a statement and the making of a short address either by each member of the deputation or, should they so wish, by their nominated spokesperson or legal adviser.
34. Each deputation shall be permitted a maximum of 5 minutes to address the Committee. Where more than one person wishes to make representation the 5 minutes should be shared between the members of the deputation.
35. All members of a deputation must continue to be seated and remain silent whilst other deputations are being made to the Committee.
36. Cross-examination, discussion or any type of debate between persons making representations to Committee shall not be permitted.
37. Once all deputations have been made, the parties shall be permitted an opportunity to rebut any factual inaccuracies which may have arisen from the oral representations of another deputation and in respect of which they have not had an opportunity to comment. This will be strictly limited to responding to any such issue and the party will not be permitted to rehearse any representations which have already been made.
38. The Committee may, upon advice from officers, exclude any deputation from being present during the whole or part of the time when any other deputations are being made due to the confidential nature of information relevant to the application to be discussed; or for such other reasons as may be deemed appropriate.
39. The Committee may seek clarification from those who have spoken on any issues raised by them but should not enter into a debate.
40. Officers can address any issues raised during the course of representations from any deputation and the Committee may seek clarification from officers.
41. The Chair will ensure that those making representations to the Committee adhere to the time limits set out in this Protocol. These time limits will have been communicated to those making representations in advance of the meeting.

42. The Chair may at any time during the hearing of deputations, if they think it necessary to secure order, suspend the meeting and direct the removal of any individual from the meeting, or order that the meeting be cleared of all deputations.
43. When hearing deputations, the Chair will require members engaging in debate to desist, until such time as all relevant information has been received.
44. The Chair may bring the questioning of any person appearing before the Committee to a close provided s/he is satisfied that all relevant issues have been addressed. The Chairman may also prevent duplication of questions being put.
45. If a member of the Committee moves that the question be put to a vote and the Chair is of the opinion that the application before the Committee has been sufficiently discussed, he shall put the motion to the vote.

#### ***DECISIONS CONTRARY TO OFFICER RECOMMENDATION***

46. The decision as to whether to grant an application lies with the Committee and it is entitled to come to a decision contrary to officer recommendations.
47. Any such decision may be subject to legal challenge and members must therefore ensure that the rationale for the decision are fully explained and based on proper planning considerations.
48. The senior authorised planning officer and/or the Council's solicitor should always be given the opportunity to explain the implications of the Committee's decision prior to a vote being taken on any such proposal.
49. The reasons for the decision contrary to the officer's recommendation must be formally recorded in the minutes and a copy placed on the planning application file / electronic record.

#### ***DECISIONS CONTRARY TO PLANNING POLICY***

50. *In general, planning decisions should be taken in accordance with the local development plan and any other associated planning policy documents. If a Committee member proposes, seconds or supports 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 departure from the local 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.

### **MANDATORY PRE-DETERMINATION HEARINGS**

51. The Committee must hold pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department but returned to the Council for determination)<sup>2</sup> prior to the application being determined.
52. Paragraph 22-43 of this Protocol shall also apply to pre-determination hearings.
53. In deciding whether to hold a pre-determination hearing, members should take into account the following factors (please note this list is not exclusive):
  - a) the relevance of the objections in planning terms;
  - b) the extent to which relevant objections are considered to be representative of the community, particularly in the context of pre-application community consultation;
  - c) the potential of causing undue delay in the decision making process; and
  - d) 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.
54. The Committee may also hold a pre-determination hearing, 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.
55. The applicant and any other person who makes representations to the Council in respect of the application will be afforded an opportunity to appear before the Committee.
56. Any hearing will take place after the expiry of the period for making representations on the application but before the Committee hears the application. The Council will endeavour to hold pre-determination hearings on a separate date from the Committee meeting at which it will be considered; however this may not always be possible.
57. For these hearings the case officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the Committee decides to

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<sup>2</sup> Regulation 7 of the Planning (Development Management) Regulations (NI) 2015

hold the hearing on the same day as it wishes to determine the application the report to councillors will also contain a recommendation.

## **PREPARATION OF PLANNING POLICY DOCUMENTS**

58. Planning policy documents include the local development plan, local planning policies, plan strategies, the statement of community involvement and any other development plan documents or guidance.
59. The Committee should have a high level of involvement in the preparation and approval of planning policy documents.
60. Once approved by the Committee, planning policy documents will be referred to the Council's Strategic Policy and Resource Committee who will assess the document to determine whether it consistent with the broader strategic objectives of the Council.
61. If Strategic Policy and Resource Committee considers any of the said planning policy documents to be inconsistent with those objectives, the Committee will reconsider the relevant document in light of the issues raised by the Strategic Policy and Resource Committee.
62. Once the Committee has reconsidered the relevant document it shall be reported to the Strategic Policy and Resource Committee and will be subject to ratification by full Council.

## **SITE VISITS**

63. Site visits may be arranged subject to Committee agreement. They should normally only be requested where the impact of the proposed development is difficult to visualise from the plans and other available material and the expected benefit outweighs the delay and additional costs that will be incurred.
64. Only members of the Committee and officers should attend organised site visits.
65. Members will not carry out their own unaccompanied site visits as there may be issues around permission to access the land, they will not have all of the relevant information from

the relevant planning officer and, if a councillor is seen with an applicant or objector, it might lead to allegations of bias.

66. A nominated officer will record the date of the visit, attendees and any other relevant information.
67. The Chair, or Vice Chair in the Chair's absence, will ensure that the site visit is conducted in accordance with this protocol and the Code of Conduct for Councillors.
68. A statement will be read out by the Chair before the commencement of the site visit to remind members of the purpose of the visit and the terms of this protocol. The planning officer will then remind members of the proposal and the main issues.

A nominated officer will prepare a written report of the members' site visit which should then be presented to the Committee meeting at which the application is to be determined.