

Supplementary Committee Agenda



Planning Services Scrutiny Panel Tuesday, 9th December, 2014

Place: Committee Room 2, Civic Offices, High Street, Epping

Time: 7.30 pm

Committee Secretary: Mark Jenkins - Directorate of Governance
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9. REVIEW OF OPERATION OF PLANNING COMMITTEES AND TERMS OF REFERENCE (Pages 3 - 10)

(Director of Governance) The attached revised draft Article has been subject to discussion with the Chairmen and Vice Chairmen of the development control committees. This redraft is for discussion at the Panel meeting.

It was also suggested by the Chairmen that the revised procedures should be implemented before the envisaged completion of the review of the Constitution subject to a review in light of operational experience.

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Draft New Article

District Development Control Committee and Area Plans Subcommittees.

The Council will establish the following Committees which shall be appointed by the Council at its annual meeting.

Membership

- (1) The following shall be the non-executive committees of the Council, consisting of the number of members set out below:

Committee or Sub-Committee	Number of Councillors	Membership
District Development Control Committee	15	15 members of the Council appointed by the Council at its Annual meeting, subject to pro rata requirements and including those members appointed as Chairman of each Area Planning Subcommittee. <u>Members to be appointed on the basis of aptitude, interest and planning experience</u>
Area Plans (South) Sub-Committee	25 members (Max)	Area Plans Sub-Committee South – All District Wards in the Parishes of Buckhurst Hill, Chigwell and Loughton. – subject to (3) below and quorum requirements set out in the Council rules
Area Plans (East) Sub-Committee	19 members	Area Plans Sub-Committee East – District Wards of Epping Hemnall, Epping Lindsey and Thornwood Common, North Weald Bassett, Theydon Bois and Lambourne, Passingford, Chipping Ongar, Greensted and Marden Ash, Shelley, High Ongar, Willingale and The Rodings, Hastingwood, Matching and Sheering Village, Lower Sheering, Moreton and Fyfield.
Area Plans (West) Sub-Committee	14 members	Area Plans Sub-Committee West - All District Wards in the Parish of Waltham Abbey together with the District Wards of Lower Nazeing, Broadley Common, Epping Upland & Nazeing and Roydon.

- (2) Members of the Council appointed to each Area Plans Sub-Committee shall be drawn solely from those representing wards within the area for which the Sub-Committee is responsible shown in column three above. Seats on each Sub-Committee shall be allocated to all Councillors representing electoral wards in the areas concerned. The requirement for the appointment of Sub-Committees from all members of the Council shall not apply to the Area Plans Sub-Committees.
- (3) The Area Plans Sub Committee (South) shall comprise a maximum of 25 Councillors, being the total number representing wards in the area for which the Sub Committee is responsible. At the Annual Council meeting, the Council shall determine the membership of that Sub Committee on the basis of the number of Councillors who sign a written notice stating that they wish to serve on the Area Sub Committee for the ensuing year. Any Councillor who does not sign a notice shall be deemed not to be a member of the Sub Committee for the year in question. Councillors may not retract a signed notice or seek to join the Sub Committee by signing a notice until the next Annual Council meeting.
- (4) A member of the executive may serve on an Area Plans Sub-Committee if otherwise eligible to do so as a Councillor.

Responsibility for functions:

The Committee and Subcommittees the subject of this Article have responsibility for determining matters which have been delegated by the Council and the Executive shown in Part 3 of this Constitution, showing those which are the responsibility of the Executive and those which are not Executive functions and any limitations on delegation.

Terms of Reference:

District Development Control Committee

- (1) To determine:
 - (a) Any development proposals which affect more than one Area Plans Subcommittee;
 - (b) Any 'major' application (as defined within guidance issued by the DCLG) where the Council is the land owner.
 - (c) Any application referred by an Area Plans Sub-Committee by resolution, by a minority of members of an Area Plans Sub-Committee in accordance with the Council's Rules or where the Subcommittee is unable to determine the application.
- (d) To determine any recommendation of an Area Plans Sub-Committee which relates to potential decisions liable to give rise to claims for costs or compensation including development control matters and enforcement of planning requirements (including recommendations of no action) but excluding works on preserved trees.
- (e) Any planning application or other planning matter submitted by, or on behalf of, a Councillor of the Authority (and/or a spouse or partner thereof).
- ~~(f) Any departure applications or proposals for development of which the Committee approve but which would have to be notified to the Secretary of State under the prevailing Town and Country Planning (Development Plans and Consultation) Direction as being development which, by reason of its scale or~~

~~nature or the location of the land would significantly prejudice the implementation of development plans, policies and proposals.~~

Area Plans Subcommittees:

- (1) To consider all applications (except as may be delegated to the Assistant Director Governance – Development Management or fall to the District development Control Committee to determine as set out above) received for development within their Subcommittee Area and, except as detailed below, to make decisions on behalf of the district planning authority thereon.
- (2) Subject to the prior approval of the Chairman of the Subcommittee, to consider informal proposals for development and to give guidance to planning officers.
- (3) To consider planning applications made by other authorities which are considered by the Assistant Director Governance – Development Management to require member response.
- (4) To consider and make recommendations to the District Development Control Committee on applications for development within their Subcommittee Area where:
 - (i) the Sub-Committees proposed decision is a substantial departure from
 - (a) the Council's approved policy framework; or
 - (b) the development or other approved plan for the area; or
 - (c) it would be required to be referred to the Secretary of State for approval as required by current government circular or directive**
 - (ii) the refusal of consent may involve the payment of compensation; or
 - (iii) the District Development Control Committee have previously considered the application or type of development and has so requested; or
 - (iv) the Sub-Committee wish, for any reason, to refer the application to the District Development Committee for decision by resolution.
- (5) Applications made by staff of the Council defined in Appendix A of the Planning Services Scheme of Delegation which are required to be determined by subcommittee.
- (6) Where an application is objected to by a Councillor in a purely personal capacity.

Public Participation at District Development Control Committee and Area Sub-Committees on Planning Matters

- (1) There shall be afforded to those classes of persons specified in the rules for participation at Appendix 1 to this Article an opportunity, on request, to make oral representations to any Area Plans Sub-Committee (or in appropriate circumstances, the District Development Control Committee) meeting concerning any planning application or related matter before that Sub-Committee for determination.

(2) The procedure for dealing with requests to address an Area Plans Sub-Committee or the District Development Control Committee shall be as prescribed from time to time by the Council and as set out in Appendix 1.

Site Visits

(1) Site Visits may be undertaken of any potential development site subject to application where there is a substantial benefit to the decision-making process. Such a visit may be approved by the Subcommittee at the meeting where they are being asked to determine the matter or in advance on the recommendation of planning officers in consultation with the Chairman of the Committee.

(2) Site Visits will be undertaken following the guidance at Appendix 2 to this Article.

**RULES FOR PARTICIPATION ON PLANNING MATTERS AT COUNCIL,
AREA PLANS SUB AND DISTRICT DEVELOPMENT CONTROL COMMITTEE
MEETINGS**

1. The following persons shall be able, on request, to address the appropriate Area Plans Sub-Committee and District Development Control Committee on any planning application or related matter within its terms of reference and included on any agenda for a period of three minutes:
 - (a) one objector ~~(except where, in the light of exceptional circumstances approved by the Chairman of the Sub-Committee, additional speakers are allowed);~~
 - (b) one representative of the relevant Parish or Town Council ~~(except where in the light of exceptional circumstances approved by the Chairman of the Sub-Committee representations from other Parish or Town Councils are given in person)~~ for the purpose of explaining the views of that Council on the matter in question;
 - (c) one representative of any other authority consulted on the application or as a statutory consultee **where they have so requested.**
 - (d) an applicant (or one nominated agent or representative);
 - (e) in the case of planning applications which ~~the Head of Planning and Economic Development deems to~~ have a District wide significance, it shall be permissible for the Chairman of an Area Plans Sub-Committee or the Development Committee, on the recommendation of the Head of Planning and Economic Development, to allow any Parish or Town Council to comment on such an application.
2. For the purposes of this Standing Order the definition of "planning application or any related matter" shall not include any existing or proposed enforcement act under the Planning Acts.
- ~~3. Subject to the proviso under 1(b) above, the number of speakers shall be limited to the three.~~

Issues here: (1) Can they split their time between two or more? (2) What happens when the Chairman allows more than one objector or parish to speak?

3. The Chairman of the Committee or Subcommittee may allow additional speakers in exceptional circumstances

~~4. Notice of at least one working day is required from any person wishing to address an Area Plans Sub-Committee.~~

4. Persons wishes to address the Committee or subcommittee are required to register with Democratic Services by 4.00 pm on the day before the meeting. The Chairman may make changes or additions to speakers after that time at their decretion.

5. Persons addressing an Area Plans Sub-Committee shall be allowed no more than three minutes to present their case. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Sub-Committee members.
6. Written submissions and photographic or similar material will not be considered by an Area Plans Sub-Committee or District Development Control Committee. **Any written submissions received after the agenda is produced will be verbally summarised and reported to the Committee**. ~~unless they have been received by the Chairman of the Sub-Committee, Ward Councillors and Head of Planning and Economic Development before the meeting. Such submissions or other material may, at the discretion of the Chairman be admitted to the meeting if he or she that it is significant.~~

~~ISSUES: Could this be instead that no submissions and photographic materials may be tabled at Area Plans Subcommittee or District Development Control Committee meetings. Material may be incorporated into the planning officers presentation if (i) received by Planning Officers by the speaking deadline; (ii) It is a significant material planning matter.~~

- ~~7. The right to address an Area Plans Sub-Committee shall be extended to the District Development Control Committee (but not to the Council) in the event of any planning matter being referred by an Area Plans Sub-Committee or in respect of any planning matter submitted direct to that Committee.~~
- ~~8. Any matter deferred by an Area Plans Sub-Committee or the District Development Control Committee shall entitle any applicant, objector or parish/town council representative a further right to address the Sub-Committee when the matter is reconsidered.~~
- 7. The right to address the Committees is extended to both the Area Planning Subcommittees and District Development Control Committee (but not to Council). Having previously made representations at an Area Subcommittee does not preclude any applicant, objector or parish/town council representative from speaking again when the matter is reconsidered.**

Guidance for Members at Site Visits

Formal site visits may be requested by any Planning Committee. These can be requested either before a planning meeting or resolved at the meeting concerned. However, these consume resources and delay determination of an application. It is good practice to consider site visits only where there is a substantial benefit to the decision-making process, e.g. when the impact of the proposed development is difficult to visualise from prior inspection from a public place, or from the plans and the supporting material; or it is particularly contentious.

It is recognised that Councillors are subject to lobbying on specific applications. In such cases, it is essential that care is taken to maintain the Council's and its members' integrity so as to protect the credibility of the planning process.

Councillors are asked to bear in mind the following guidance when undertaking planning site visits so as to avoid the perception of pre-determination.

- Site visits should be undertaken at an agreed predetermined time and conducted in a single group with a planning officer present at all times.
- Members of the committee concerned are encouraged to attend site visits.
- The site visit is managed by the Chairman, Vice-Chairman or planning officer present. The Chairman or Vice Chairman will remind Councillors of the guidance at the beginning of each visit. Members of the committee or subcommittee should not enter into discussions with interested parties, such as the applicant, the agent or neighbours during the visit.
- Councillors/Planning Officers should not allow interested parties to use the site visit as an opportunity of lobbying members of the committee. It is made clear to other parties at the outset that the purpose is to gather information and to view the site only.
- Any questions from Councillors should be limited to questions of fact and directed, in the first instance, to the planning officer present and not directly to interested parties present.
- In the interests of fairness to all parties, members as a single group should consider the desirability of viewing an application site from more than one property when the site visit is arranged.
- Councillors must ensure that the application is not determined at the site visit
- Councillors should avoid acceptance of any hospitality at a site visit which could be misinterpreted by third parties.

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