

PART 11

Regulatory Functions

This Part sets out how the Council will conduct its regulatory and licensing functions.

CONTENTS PAGE

Section	Title
1	<u>Introduction</u>
2	<u>Licensing Guide</u>
3	<u>Planning Code</u>
4	<u>Planning Syllabus</u>
5	<u>Planning Delegations</u>

Section 1

1 INTRODUCTION

There are some non-executive functions, those over which the cabinet does not have responsibility, which are considered regulatory or quasi-judicial in that they determine individual applications and reviews of permission or licences and deal with the rights and civil liberties of individuals.

The functions of determining such matters as planning applications, making decisions on licensing are delegated to three separate committees of the Council. These fall into three categories:

- (a) Planning (development control) applications and enforcement, which is dealt with by the Strategic Planning Committee and the Local Area Committees
- (b) Matters regulated by the Licensing Act and Gambling Act, which are the responsibility of the Licensing Committee
- (c) All other regulatory licenses to be determined by the Council, which are dealt with by the Regulatory Licensing Committee.

Given their nature, these matters require a set of duties placed upon Members, whether on the Committee or when asked to become involved in these affairs in respect of their electoral division or involvement in or by campaigns and lobby groups. As a response, the Council has adopted particular guides, code of behaviours and training syllabus that is included here. Councillors are required to observe the code when engaged in these matters and, for example, a Member cannot sit on a relevant committee without first having completed the associated training to a certain standard.

1.1 Meetings and Procedures

A Regulatory Licensing Panel (Sub-Committee) may regulate, where necessary, its own procedures to deal with any matter arising in connection with its duties, provided that the procedures remain in accordance with the principles set out at Article 13 of this Constitution. This includes that, subject to any statutory rules or procedures detailed elsewhere in the Constitution, a Panel acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, to hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to information Procedure Rules, the public and press, but that the decision making may thereafter be taken in private adjournment.

It is expected that decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.

Section 2

2 LICENSING GUIDE

2.1 Introduction

- 2.1.1 This guidance sets out principles to assist Members in dealing with those matters that fall within the remit of the Licensing Committee. It applies to all Members of the Council who may become involved in these matters and also contains special advice for Members of the Licensing Committee.
- 2.1.2 The guidance supports (but does not form part of) the Code of Conduct for Members of Northumberland Council, which Members must observe at all times. The Code of Conduct for Members avoids reference to specific functions of the Council, such as licensing, but has direct relevance to Members conduct in relation to their involvement in the licensing process. Members are therefore recommended to consider carefully the provisions of both the Code of Conduct for Members, and this guidance, in relation to their involvement in licensing matters.
- 2.1.3 The Council must act fairly and reasonably in all its dealings. Licensing matters in particular can sometimes raise difficult issues. Because the grant or variation of a licence can have a substantial effect on the success or failure of an applicant's business, applicants may try to put pressure on decision makers. Similar pressures may be exerted by objectors. Also, licensing issues can be emotive because they affect individuals' quality of life. A disappointed applicant or objector can all too easily form the belief that they lost because a Member had been subjected to undue influence. It is important, therefore, that the Council is open and transparent in its decision-making on licensing matters.
- 2.1.4 Members who are responsible for making licensing decisions should take account of the needs and interests of the local community, but this must be in the context of the four Licensing Objectives (prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm), and the Licensing Council's Licensing Policy Statement. Members must also maintain impartiality and the appearance of impartiality.
- 2.1.5 Any investigation by the Local Government Ombudsman into a complaint of maladministration against the Council as a licensing body or any internal investigation of complaints under the Complaints Procedure, would be likely to include consideration of whether this guidance was observed by Members.

2.2 Key principles

- 2.2.1 There are two key principles to follow. The first is that the Licensing Committee (or a Sub-Committee of the Licensing Committee) will determine each case before it on its merits. It will consider
- (a) relevant representations presented to it by interested parties or responsible authorities
 - (b) the promotion of the four licensing objectives
 - (c) guidance issued by central Government
 - (d) the Licensing Council's Statement of Licensing Policy
- 2.2.2 Members must:
- (a) place due weight on all the facts and arguments, avoiding pre-conceived ideas and pre-determined approaches and giving full consideration to all parties;
 - (b) not take irrelevant or improper considerations into account (this includes considerations which are not relevant to the Licensing Objectives or Statement of Licensing Policy);
 - (c) have sound reasons for their decision
 - (d) The grounds for the decision must be made clear. Local opposition to, or support for, an application is not in itself a ground for refusing or granting it, unless that opposition or support is founded on valid reasons in terms of the Licensing Objectives or Licensing Policy Statement.
- 2.2.3 The Licensing Officer or the relevant Legal Officers are available to give advice, prior to or at Committee meetings, on what might constitute valid grounds for granting or refusing applications.
- 2.2.4 The second principle is that the Council must avoid maladministration. This generally refers to the process by which the decision is taken (and how that process appears to the outside world) rather than the decision itself. It covers such things as failure to be impartial and failure to consider all the facts. For the individual Member, this means being cautious in dealings with applicants and people making representations, so that both sides are dealt with fairly. Members must not appear to have been unduly influenced or to have a closed mind. It is also vital to observe the Members Code of Conduct as a breach of the Code can amount to maladministration.
- 2.2.5 An applicant who is aggrieved by the Licensing Committee's decision may appeal to the Magistrates' Court. In addition, if a person believes that the Licensing Committee has not acted reasonably, they can apply to the High Court for judicial review. This could mean that the Court overturns the decision, and possibly awards substantial damages and costs against the Council.

2.2.6 Allegations of maladministration are investigated by the Local Government Ombudsman. If the Ombudsman finds that maladministration has occurred, the Council will be required to publish the finding, and may also be asked to compensate the complainant. A finding of maladministration can be made against the Council even where the actions giving rise to that finding are those of a single Member.

2.3 What this means for Members

2.3.1 The following guidelines apply to all Members. They are intended to translate these principles into practical advice, and to help Members deal with a range of situations that may arise.

- (a) You should always think carefully about how you deal with anyone who approaches you about a licence application. This may be an applicant, an objector, a supporter or someone simply requiring information about an application. It is always open to you to refer the person to the Licensing Officer or the appropriate member of staff, and you would be well-advised to do this if you feel that anyone is trying to put you under undue pressure or influence you unfairly. In particular, you should not allow yourself to be pressured into giving an 'instant opinion' on the application.
- (b) You should be particularly careful in dealing with any approaches you may personally receive from applicants. They may attempt to put pressure on you in order to secure some expression of commitment. Again, Members should always refer the person concerned to the Licensing Officer. If you feel that the approach was inappropriate or improper, you should raise the matter with the Licensing Officer or the Head of Paid Service
- (c) You should not accept gifts or hospitality from applicants or objectors in connection with your membership of the Committee, as this might reasonably be interpreted as likely to influence your judgement. In addition, all Members are reminded of their obligation under the Code of Conduct for Members regarding registration of gifts and hospitality over the value of £50.
- (d) Nevertheless, as a Member you are the representative, indeed the champion, of your community, and there will be times when you feel you must represent the community's views on a particular application. The Licensing Committee will normally allow ward Councillors' to make representations at the Committee hearing on applications affecting their ward, provided they observe the Committee's procedures on giving notice. However this will not apply if you are personally affected by the application; in that case, you will have a

personal and prejudicial interest in the matter and may not make representations at the hearing, nor even attend it. (You may however ask someone to represent you).

- (e) If you are a Member of the Licensing Committee, you should not close your mind to the outcome of an application before it is considered by the Committee, or give the impression that you have done so, even though you may hold strong views about it. You should bear in mind that your colleagues who are not Members of the Committee will be better placed to undertake this role. Similarly, if the question arises of writing letters of objection (or support) to the Licensing Officer, it would be more appropriate if these came from colleagues who are not on the Committee.
- (f) Members are not in a position to give instructions to officers about any application. Only the Licensing Committee can do that. For the same reason, until a formal decision is taken, any views you may express in discussion with other parties are personal and not the Committee's and you should make this clear. In addition, Members are reminded of their obligation under paragraph 3 of the Code of Conduct, which requires them "not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of the Council". In particular, Members must not put Council employees under pressure to handle a licensing application in a particular way.
- (g) Members must also avoid putting undue pressure on Members of the Licensing Committee, particularly those Members who have been selected to hear a case in which the Member concerned may be interested. For example, it would be wrong to seek to obtain a commitment as to how a Member might vote.
- (h) Members should also avoid entering any premises or site in connection with an application. However, they may sometimes be asked by constituents to visit them in their homes, and on these occasions the question of a licence application (or objection or support) may be raised. You should be cautious about giving any commitment in these circumstances. Apart from anything else, you may only have heard one side of the story.

2.4 At the Licensing Committee

- 2.4.1 There are some specific rules which you must observe when you are considering applications at a hearing of the Licensing Committee or a Licensing Sub-Committee:

- (a) There are some specific rules which you must observe when you are considering applications at a hearing of the Licensing Committee or a Licensing Sub-Committee:
- (b) You must avoid predetermination – that is, making up your mind about an application before the hearing, or giving the impression that you have made your mind up. You must listen to all the arguments for and against the application and weigh them up carefully before reaching your decision.
- (c) You should consider whether any statement that you may have made could give the impression that you are not coming to the hearing with an open mind. Have you, for example, spoken out against adding to the number of licensed premises in the street or area in which the application that you are about to hear is located? if so, there is a risk of challenge on the grounds of bias and you should consider withdrawing from the hearing so that another Member of the Licensing Committee can take your place.
- (d) It follows from this that you must not base your decision on any discussion that may have taken place in a political group meeting. To do so would imply that you have not come to the hearing with an open mind, and that you were influenced by group discipline rather than the merits of the case. The Ombudsman has found maladministration in cases where Members have been influenced by political group decisions in deciding planning applications, and the same principles apply to licence applications.
- (e) Make sure that you are not swayed by arguments which are not directly related to the merits of the application. For example, you should not vote against or for an application just because you are opposed to or support the aims of the organisation that is applying. Also, it may sometimes happen that views expressed at the Committee meeting by applicants, objectors, or people who are in favour are not matters which the Committee can properly take into account. The officers will advise on this.
- (f) You should also make sure that your reasons for arriving at a decision are clearly expressed and understood by your colleagues. Furthermore, your reasons must be valid in terms of the Licensing Objectives and the Statement of Licensing Policy and you should seek advice on this if you are not sure. Reasons for the Sub-Committee's decision will need to be recorded.
- (g) You must comply with the requirements of the law, and the Members Code of Conduct on disclosure of interests. In particular, if you have a personal and prejudicial interest in an

application, you must not take part in the hearing; you must declare the interest and withdraw from the meeting room. You may not remain in the meeting room, and you cannot represent the applicants or objectors at the hearing, or express any views on the matter at the hearing.

- (h) If you are aware that an application in which you have a personal and prejudicial interest is coming up for a hearing, you should notify Committee Services so that you are not selected for the Sub-Committee which will consider the application.
- (i) Even if you consider that your interest in an application is personal but not prejudicial, you should not participate as a Sub-Committee Member in the hearing of the application because of the risk that your impartiality could be challenged. Examples of situations where you should not participate include
 - (i) where you have prominently supported the development of a particular Council facility (such as a Leisure Centre) in respect of which the application is made
 - (ii) where you are a Member of an outside body which is applying for a licence, whether or not you were appointed to that body by the Council.

While these situations may not strictly speaking amount to personal and prejudicial interests in terms of the Code of Conduct, they could nevertheless give rise to an appearance of bias.

The Monitoring Officer is available to give advice.

2.5 Conclusion

- 2.5.1 Observing this protocol will go a long way towards achieving the Council's goal of an open and inclusive licensing system. It will increase public confidence, reduce the likelihood of Council decisions being challenged, and help Members in dealing with what may be difficult situations.

The purpose of the protocol is to ensure that justice is not only done but is seen to be done.

Section 3

3 PLANNING CODE

3.1 Guidance for Elected Members and Officers Dealing with Planning Matters

The term 'Planning Committee' in this Code is used in a generic sense and applies to any Council Committee, sub-committee or Cabinet when considering a planning matter. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

3.2 Introduction

3.2.1 The Localism Act 2011 requires the Council to promote and maintain high standards of conduct by Members of the authority. This has resulted in the preparation of a Council Code of Conduct for Members. This guidance deals specifically with the role of elected Members and officers in planning matters.

3.2.2 The guidance sets out practices and procedures that Members and officers of the Council should follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

3.2.3 The guidance is largely based upon the Code of Conduct, the Royal Town Planning Institute's Code of Professional Conduct, together with advice issued by the Commission for Local Administration in England, central government, the National Planning Forum, and the Local Government Association.

3.2.4 The existence of the guidance and the Council's commitment to follow it are intended to establish and improve upon the trust between the Council as decision maker and those who seek decisions from it or are otherwise affected by those decisions. Failure to follow this guidance without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Members and officers.

3.3 The need for guidance on the conduct of Planning Matters

3.3.1 Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It affects land and property interests, including the financial value of land and the quality of their settings. It is also often highly contentious because decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system which invites public opinion before taking decisions. It has

a quasi-judicial element which particularly distinguishes planning from most other local government business. It is important, therefore, that the process is characterized by open and transparent decision making.

- 3.3.2 The Council is committed to open and transparent decision making as set out in Article 13 of the Constitution. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.

3.4 The role and conduct of Members and Officers

- 3.4.1 Members and officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 3.4.2 The Council's Code of Conduct (as supplemented by guidance from the Standards Committee and the Standards Board for England) provides guidance and standards for Members. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests (see next section). Of particular relevance to Members dealing with planning matters is the requirement that a Members must not use their position as a Members improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.
- 3.4.3 Whilst Members have a special duty to their electoral division constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. The basis of the planning system is the balancing of individual proposals with wider public interests. Much is often at stake and opposing views are often strongly held by those involved.
- 3.4.4 Members decisions must not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, balance out all of the material issues and influences in the light of their own individual assessments and their collective policies and strategies.
- 3.4.5 Whilst Members should take account of all views expressed, they must not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 3.4.6 Members shall follow the advice in the Council's Code of Conduct about accepting gifts and hospitality. Whilst there are no hard and fast rules about the acceptance or refusal of hospitality or tokens of goodwill, Members should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Members are personally responsible for all decisions connected with the acceptance or offer of

gifts or hospitality and for avoiding the risk of damage to public confidence in local government.

- 3.4.7 Officers shall follow the guidance on their standards of conduct as set out in the Council's Employees Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 3.4.8 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because a council, its Members or other officers, have prevailed upon the officer to put forward their professional view as something other than it really is.
- 3.4.9 The Council endorses the statement in the RTPI code that, "RTPI Members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions", and extends it to apply to all officers in the Council advising on planning matters.
- 3.4.10 The Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected Members as their professional adviser on planning matters. No senior officer shall have the power to overrule the professional advice of the head of the planning service.
- 3.4.11 Members who are required to take decisions on planning matters must undertake initial training in the planning process. Further regular training sessions should be attended so that Members can be updated on changes to legislation or procedures.

3.5 Declaration of Interests

- 3.5.1 The Localism Act 2011 and the Council's Code of Conduct place requirements on Members in respect of the registration and disclosure of their interests and the consequences for the Members participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously.
- 3.5.2 Where a Member has a personal interest (which includes any disclosable pecuniary interest) in the matter being considered, they must always declare it unless the interest is already entered in the Council's Register of Members interests. Where the personal interest is a prejudicial one i.e. "...if the interest is one which a member of the public with knowledge of the relevant facts would reasonably think it so significant that it is likely to prejudice the Members judgement of the public interest", then the Member must declare that fact to the meeting, not participate in any discussion or vote on the matter and must leave the room whilst the matter is being discussed.

- 3.5.3 If a Member, in advance of the decision-making meeting, takes a firm or closed view on the planning matter, either in public or private, they would not be able to demonstrate that all the relevant facts and arguments had been taken into account. They would have fettered their discretion. The time for individual Members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered. A Member who has declared an opinion on the merits of the proposal prior to this stage might place the Council in danger of judicial review. Care should be taken if opinions are expressed to ensure that the Member demonstrates at the time of giving any opinion that they have not closed their mind to the consideration of further evidence and debate prior to taking a decision in the matter at the committee meeting. If a Member does close their mind to the merits of a planning matter in advance of making a decision at the committee meeting, they must take no part in the discussion of the proposal or the decision by the committee on that matter.
- 3.5.4 The above advice is relevant where, for example, a Member of the planning committee is also a Member of a Local Area Committee which may be consulted on a planning application. If a Member of a planning committee expresses a firm or closed views on a planning application at the Local Area Committee meeting, then that Member should not participate at the planning committee meeting when the decision is made. If the Member simply notes the debate at the Local Area Committee but takes no part in it, other than perhaps to seek clarification, then they could take part in the decision-making meeting. The Local Area Committee minutes must record that position. A Member of the Local Area Committee who is also a Member of a planning committee must not present the views of the Local Area Committee to the planning committee as this may give the appearance of the Member having prejudged the issue. The important point to bear in mind is that in order to act impartially in making decisions on planning applications, Members of the planning committee must not pre-judge an application prior to the decision-making meeting when all the facts are available.
- 3.5.5 Serving Members, or their relatives or partners, who submit, or act as agents for people pursuing a planning matter within the Council, must play no part in the decision-making process for that proposal. Members who have been appointed to or otherwise serve on trusts established by the Council may have a conflict of interests in an application which may require them to declare an interest. In such a case the Members duty as a trustee must take precedence.
- 3.5.6 In some circumstances a county councillor may ask a fellow councillor to represent the interests of the electors. This can occur when a Member has a personal and prejudicial interest (e.g. the application is made by a member of their family) and should take no part in the decision making process. In such circumstances references in this

guidance to “the local county councillor” shall be read as references to the fellow county councillor.

- 3.5.7 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Such proposals shall be considered in the same way as those by other developers. Where Members of the planning committee are also Members of the Cabinet with responsibility for promoting the development, they must consider whether they are so committed to that particular development that they may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached.
- 3.5.8 Officers must always act impartially. An officer who believes they may be seen to have a personal interest in a planning matter shall declare it at the earliest opportunity, so advise the Director of Local Services or the Head of Paid Service, and have no further involvement in the processing or consideration of that matter.

3.6 Lobbying of and by Members

- 3.6.1 Lobbying is a legitimate part of the political and planning process. Those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or Members of a planning committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 3.6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. The time for individual Members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 3.6.3 A planning committee Member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, planning committee Members shall take care not to commit themselves to vote for or against a proposal before a decision is to be taken. To do so, without all the relevant information and views, would be unfair and prejudicial. Members should make clear that they reserve their final decision on a proposal until the committee meeting.
- 3.6.4 A planning committee Member who represents an electoral division affected by an application is in a particularly sensitive position if it is a controversial matter around which a lot of lobbying takes place. If the

Member responds to lobbying by deciding to go public in support of a particular outcome, then that Member would have prejudiced their position in terms of demonstrating that they could impartially weigh the arguments presented at the committee meeting. The proper course of action is therefore for such a Member to declare an interest and not vote or decide on the matter and to leave the room.

3.6.5 Members of the planning committees shall not organise support for or opposition to a proposal (without having first made it clear that they will not be participating in the decision), lobby other Members or put pressure on officers for a particular recommendation.

3.6.6 Members of a planning committee must be free to vote or decide as they consider appropriate on the individual merits of planning matters. Political group meetings prior to the Committee meeting shall not be used to decide how Members should be instructed to vote.

3.7 Pre – and Post Application Discussions and Negotiations

3.7.1 Discussions between an applicant and a planning council, prior to the submission of an application, can be of considerable benefit to both parties and is encouraged as best practice. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process.

3.7.2 Members need to preserve their role as impartial decision-makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement in the presence of at least one senior planning officer.

3.7.3 Members may receive information from, and give information to, applicants and members of the public but, to safeguard their impartiality; they must maintain a clear distinction between receiving information and negotiating. Any information received by Members should normally be provided to the officers dealing with the application.

3.7.4 Pre- or post-application discussions or negotiations by officers shall be conducted in accordance with the following guidelines.

(a) It must always be made clear at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are those of the officer only.

(b) Advice should be consistent and based upon the Local Development Framework or its equivalent and material considerations.

(c) There should be no significant difference of interpretation of planning policies between planning officers.

3.7.5 A written note will be made of the meeting and, if appropriate, a follow-up letter sent. Two or more officers should, wherever possible, attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.

3.7.6 Members must avoid indicating the likely decision on an application or otherwise committing the Council during contact with applicants or objectors.

3.8 Officer Reports to Committee

3.8.1 Officers' written reports to committee shall be accurate and provide all relevant information. They should include the substance of objections and the views of people who have been consulted, a clear exposition of the Local Development Framework or its equivalent and any other material considerations, a reasoned assessment of the proposal, and a justified written recommendation.

3.8.2 Oral reports (except to present and update a report) should be extremely rare and carefully minuted when they do occur.

3.8.3 If the report's recommendation is contrary to the provisions of the Local Development Framework or its equivalent, the material considerations which justify this must be clearly stated.

3.9 Public Speaking at Planning (Development Control) Committee Meetings

3.9.1 The principle of whether or not public speaking should be allowed at planning committee is a matter for each local council to decide. However, the Nolan Committee recommended that there should be opportunities for applicants and objectors, and other interested parties to make presentations at planning committee.

3.9.2 Speaking by the public at committee meetings shall be conducted in accordance with the following procedures and the Council's relevant public speaking protocol.

3.9.3 In this section "Local Councillor" means the councillor for the unitary council in whose electoral division the proposal or development is sited.

3.10 Who is allowed to speak?

Applicants/agents and any third party (including Town and Parish Councils) who have submitted written comments on an application may speak at the Committee. Speaking offers the opportunity to clarify points raised in the written representations.

Such representations should normally be made prior to the end of the period neighbour notification/site notices, but those making written representations outside this period but prior to the publication of the Committee report will be allowed to address the Committee. A local Councillor who has a Code of Conduct interest in relation to the application which would otherwise mean that they would have to withdraw from the meeting cannot speak as a local Councillor and must withdraw unless they have the benefit of a dispensation. In the event that a local Councillor has to withdraw from the meeting in such circumstances, another Member nominated by the local Councillor so affected may speak in place of that local Councillor.

Those entitled to speak can nominate anyone to speak on their behalf.

If a Local Councillor is also a Member of the Planning Committee but chooses to speak as Local Councillor then they can take no part in the determination of that application.

How much time will be allocated for speaking?

Five minutes for

3.10.1 objector(s)

3.10.2 local Councillor and/or parish/town council

3.10.3 applicant/supporter(s)

3.11 How many people can speak?

Normally only one person in support and one person in opposition will be expected to speak

If there is more than one person wishing to speak, and a spokesperson cannot be nominated, the five minute time slot must be divided between the speakers.

In exceptional cases, for example, where there is an exceptional degree of public interest in a particular application or otherwise where it is considered appropriate to do so in all the circumstances in the interests of transparency and openness, this procedure may be varied at the discretion of the Committee Chair. In such circumstances all categories of speaker will be afforded the same opportunities to address the Committee.

3.12 How to register to speak at Committee

3.12.1 The agent (or in the absence of an agent the applicant), and all third parties who have submitted written comments will be sent notification of their right to request to speak at Committee at least 5 working days prior to the Committee at which the application is to be considered.

3.12.2 The relevant Local Councillor(s) will be informed by e mail at least 5 working days prior to the Committee of the applications in their ward

which are to be considered and of their right to request to speak at the Committee.

- 3.12.3 Those who wish to speak, including the Local Councillor(s) and the agent/applicant, must notify Democratic Services before 12 noon the day before Committee. Only those registering their request in accordance with this requirement will normally be allowed to speak.
- 3.12.4 This request must be in person or via telephone or e-mail to Democratic Services. Names and contact details of all those who ask to speak will be publicly available from Democratic Services.
- 3.12.5 If more than one objector or supporter requests to speak they will be able to request details of others wishing to speak in order to arrange a spokesperson or to divide the time. They should inform the Democratic Services Officer of any arrangements made.
- 3.12.6 Requests to speak can be withdrawn at any time.

3.13 Committee Site Visits

- 3.13.1 A site visit by Members of a Planning Committee may be held where a proposal is contentious or particularly complex and the impact is difficult to visualise or assess from the plans and supporting information. A request by the Town/Parish Council or local Member for a site visit will normally be acceded to, provided the application is contentious or there is a substantial issue that needs to be seen first-hand.
- 3.13.2 Site visits will be organised in accordance with the following procedures:
 - (a) The relevant planning committee will authorise Members to attend the site visit.
 - (b) The Head of Paid Service will invite Town/Parish Council representatives to site visits in respect of planning applications determined by the County Council. Where the proposal would have a significant direct impact upon an adjacent Town/Parish, National Park or County, they too will be invited. Invited councils and authorities may send the number of representatives they wish.
 - (c) Representatives from other councils and authorities will not be invited to site visits arising from strategic planning consultations. The County Council may seek a formal meeting with the other local council or National Park Authority where the views of the two Authorities are likely to differ.
 - (d) The Head of Paid Service will invite the local county councillor to all site visits. Where a proposal would have significant

direct impact upon an adjacent electoral division, the adjacent local county councillor will be invited.

- (e) In appropriate cases, the Head of Paid Service will invite the applicant to the site visit. The role of the applicant shall be to secure access to the site in accordance with Health and Safety considerations and to answer questions on factual matters, but otherwise should not participate in discussions.
- (f) In appropriate cases, and with the applicant's consent, the Chief Planning Officer shall invite objectors (or their selected spokesperson) and other interested parties to the site visit. Such persons will only be permitted to speak at the site visit for the purpose of answering questions on factual matters.
- (g) In appropriate cases representatives of the media shall be allowed to make recordings immediately before the formal start of a site visit (this shall also apply to public meetings).
- (h) On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The planning officer will describe the application and outline the relevant policies and planning considerations. The Chair will then invite other relevant parties to speak on matters of fact. The Chair will bring the site visit to a close and inform those attending of when the application is likely to be determined.

3.14 Public Meetings

- 3.14.1 A public meeting may be held where a proposal results in a significant number of representations from local citizens or groups.
- 3.14.2 Public meetings will be organised in accordance with the following procedures.
 - (a) The planning committee will authorise Members (including relevant local county councillors) to attend the public meeting.
 - (b) The Head of Paid Service will advertise the public meeting by site notices and, if appropriate, by a notice in a local newspaper.
 - (c) The Chief Planning Officer will notify the applicant and all who have made representations on the application of the public meeting.
 - (d) Accessible venues will be used and reasonable adjustments made to allow disabled people to participate in proceedings as and when necessary.

- (e) The Chair shall begin the public meeting by explaining the purpose and procedures so that all are aware that it provides an opportunity for the application to be explained and for the public to ask questions or make known their views. The planning officer will describe the application and outline the relevant policies and planning considerations. The Chair will then invite questions or statements from the public to be answered either by the County Council officers or, if appropriate, the applicants. The Chair will bring the public meeting to a close and inform those attending of when the application is likely to be determined.

3.15 Training and Review of Decisions

- 3.15.1 The need for all Members of the planning committee to receive training in the planning system and on the issues set out in the Code of Conduct is stressed in the advice issued by the Committee on Standards in Public Life and the Local Government Association. The Head of Development Services will organise training for all Members of the planning committee on a regular basis.
- 3.15.2 The Audit Commission's Report, Building in Quality, also recommended that elected Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision making and help with reviews of planning policy. The Chief Planning Officer will organise on a regular basis a review of the quality of its decisions, either by undertaking selected visits or by some other visual means for Members of the planning committee, local County Council Members and their advisers.

3.16 Collateral Agreements

- 3.16.1 Where a permission is agreed by the County Council subject to the conclusion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 or under the Highways Act 1980 in order to secure legitimate planning or highway interests which can only be secured by such means, a clear statement will be given to the planning committee as to the principles upon which the Obligation/Agreement will be concluded.

3.17 Community Benefits

- 3.17.1 A developer may be advised of the County Council's policies and procedures in respect of community benefits or may, on their own initiative, seek to make some payment in money or in kind to ameliorate some adverse effect of a development on a locality. Such a payment would be offered and considered having regard to the scale and impact of the development proposed, and the degree to which disbenefits can be mitigated by modifications to the proposals or planning conditions.

3.17.2 The County Council has established arrangements to deal with the issue of community benefits which separate the handling of the planning application from the negotiations of such benefits. Members of the planning committee should not normally take part in or seek to influence the course of any negotiations relating to community benefits with any prospective developer. The results of any negotiations with a developer will normally be reported to a planning committee as part of the full report leading to a decision on the application. A Member, including a local Member, may need to consider declaring an interest at that stage if they have been involved or influential in the community benefits negotiations, or have an interest in the outcome of the negotiations.

Section 4

4 PLANNING SYALLABUS

The Committee will determine a syllabus of required training before a Member may sit on a regulatory committee

That syllabus will be included here for information.

Section 5

5 PLANNING DELEGATIONS

It is the responsibility of the Strategic Planning Committee to establish a scheme of delegation for its functions.

All local planning authorities delegate the determination of the majority of planning applications to their professional officers through the officer scheme of delegation with the equivalent of the senior Planning officer for the Authority acting as the main lead on delegated decisions. The overarching scheme contained in this Constitution directs delegated decisions to the relevant Director, who in turn delegates them to the officer who fulfils the role of senior planning officer for the authority.

Delegated decisions represent about 95% of all applications made and cover different types of applications mainly householder, telecoms, prior approval, advertisement consents and smaller developments.

The Committee will agree a scheme for reservation of significant matters to itself, together with a form by which Members may request the senior planning officer to bring matters before the Committee.

The Scheme of delegation and reservation will be included here for information.