

### **3. The Decision-Making Process**

#### **3.1 Pre-application Discussions**

3.1.1 Discussions between a potential applicant and the Council (through its planning officers) prior to the submission of the application can be of considerable benefit to both parties and is encouraged by the Audit Commission, the Local Government Association and the National Planning Forum. It should always be made clear at the outset that the discussions will not bind the Council to make a particular decision and that any views expressed are personal and provisional. Advice should be considered and based upon the development plan and material considerations. There should be no significant difference of interpretation of planning officers. In addition, all officers taking part in such discussions should make clear whether or not they are the decision maker. A written note should be made of all potentially contentious meetings and telephone discussions. A follow up letter to the applicant will be provided following a pre-application discussion, especially when documentary material has been left with the Council.

3.1.2 Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should advise prospective applicants to contact the appropriate officer for advice on both merits and procedures. They should make it clear that they will only be in a position to take a decision after having considered the officers' reports and any representations and have heard any debate in the committee meeting.

3.1.3 Councillors should not agree to meet applicants or agents or third parties in connection with a current or proposed application. If councillors do meet they should only do so in the presence of a planning officer. In exceptional circumstances, where it is not possible to arrange a meeting in the presence of a planning officer without causing undue delay councillors should notify the relevant planning officer of the proposed meeting beforehand and the notification recorded in the application file. Councillors should listen and may ask questions but should not comment or negotiate. They must make clear that any views they express are

personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a councillor has discussed any proposal with the applicant, agent, supporters or objectors must be made clear when the application is before the committee for determination. This does not disbar Councillors from speaking with residents about concerns they have regarding planning application in their ward.

3.1.4 If councillors receive information that is relevant to a planning decision they must declare that information to the relevant planning officers and to the committee. Discussions with applicants, agents or objectors should be reported and any correspondence made available to officers before the committee meeting.

3.1.5 Paragraphs 3.1.2 to 3.1.4 above do not apply to councillors when they are acting as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their employers as part of their job. However, they should make it clear to their clients that they cannot and will not use their position as a councillor to influence the outcome of an application.

3.1.6 Any councillor may request that an application delegated to officers for determination be reported to committee for determination.

### **Member Pre-application Briefings**

3.1.7 Enabling a Developer to brief and seek the views of Councillors about planning proposals at an early stage can bring about better understanding of the issues through open exchange of information, discussion, and constructive questioning. Councillors can provide a steer on what is likely to be acceptable to the community and can allow problems and opportunities to be identified and addressed as the proposals for the development are put together.

3.1.8 With respect to large or strategic planning proposals (those being 100 or more dwellings or 5,000sqm or more of commercial floorspace) officers may arrange briefings for the Planning Sub-Committee with the agreement of the Chair of the committee. These will be carefully managed and attended by officers to assist in protecting elected Councillors' position as decision-takers. Prospective applicants will present a draft scheme and Councillors given the opportunity to ask

questions. No decisions will be taken at such meetings. A summary note of the meeting will be taken.

### **3.2 Reports to Committee**

3.2.1 Officer reports to committee should be accurate and cover, amongst other things, the substance of objections and views of consultees. Relevant points should include a clear exposition of the development plan, the site, its related history and any other material considerations. Reports should contain a clear written recommendation. Oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur. If the report's recommendation is contrary to the provisions of the development plan the material considerations which justify this must be clearly stated.

3.2.2 Members of Planning Sub-Committee will not attempt in any way to unduly influence the contents of the Officer's report or the recommendation made on any matter. Representations made by Councillors whether or not in writing will be recorded by the relevant officer and included in the report.

3.2.3 Any concerns about Planning Officers' work by Members of the Planning Committee shall be made in writing, to the Director of Planning. Councillors should endeavour to avoid any public criticism of officers but this does not prevent Councillors asking officers proper questions.

### **3.3 Committee Procedures and Decision**

3.3.1 Pre-committee briefing meetings between officers and councillors are not part of a formal committee proceeding. They must always be after the agenda has been set and officers' recommendations have been made. The purpose of the meetings is to inform the Chair/Vice-Chair on planning issues, the reasons for officer recommendations and to give the Chair/Vice-Chair an opportunity to give notice of or to be told about any potential problems or the need for more information.

3.3.2 Councillors should endeavour to obtain factual information from officers prior to the meeting. This can assist in reducing delays which may be caused by deferral to obtain further information.

3.3.3 The committee's decision must be in accordance with the provisions of the development plan unless material considerations indicate otherwise. When councillors propose to make a decision contrary to officer recommendation the proposer must set out clearly the reasons for so doing. The Chair will ensure that the planning officer is given an opportunity to comment before a vote is taken. Any decision contrary to the provisions of the Development Plan must be clearly justified and recorded in the Minutes.

3.3.4 Any information received after preparation of the committee report which is relevant to the determination of an application will be summarised on the supplementary representation sheet circulated prior to the meeting. Any information or documents received after its printing will be verbally reported to the meeting. No documentation should be accepted during the course of a meeting. In certain circumstances consideration of the application may need to be deferred.

3.3.5 Officers will prepare formal decision notices giving effect to decisions of the planning committee. In the event that the previously settled policy decision is unclear or that circumstances materially change prior to issuing the decision, officers may urgently refer the matter back to planning committee for a fresh decision. Officers will not materially alter the substance of a decision made by the planning committee without a referral back to the committee, or in the case of minor alterations, agreement from the chair.

### **3.4 Deferments**

The decision on any application should not be deferred without proper justification.

Justification for deferring a decision might be for one of the following reasons:

- Additional information necessary for determining the application is required
- A site visit is required

A site visit is not part of the formal committee proceedings and is not a forum for debate or for making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or as an opportunity for lobbying or advocacy. Councillors should

not express personal opinions during site visits.

### **3.5 Appeals against committee decisions**

3.5.1 The preparation of planning appeal statements, strategies and witness statements is delegated to officers. Officers will put forward a robust defence in response to an appeal against a planning decision. Should it become apparent that a decision of the planning committee (or any individual reason for refusal or condition imposed) is not defensible on appeal, or that circumstances have materially changed since the committee made its decision, officers will refer the matter back to the committee before submitting the council's defence. Such a referral back to committee is likely to be required to be held in private so as not to prejudice the council's case at appeal.

3.5.2 In cases where the government-imposed appeal timetable does not afford sufficient time to make a referral back to planning committee, the matter will be discussed with the chair (and/or vice chair and proposer of the committee's resolution) of the planning committee who may make the decision. In such cases officers will then notify all members of the planning committee of the decision.

### **3.6 Public Attendance at Committee Meetings**

3.6.1 All planning applications, other than those determined by officers exercising delegated powers, will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for exempting information in accordance with the Local Government Act 1972.

3.6.2 Applicants, agents and members of the public, representatives of parish councils and members of the Council who are not members of the committee may speak at the meeting. The procedures for notifying the Council and speaking are set out in part 5 of the Constitution (appendix 2).

### **3.7 Site Visits**

Site visits can cause delay and additional costs and should only be used when the expected benefit is substantial. A site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material,

including photographs taken by officers. The reason for requesting a site visit must be clearly set out by the proposer and recorded in the Minutes. All site visits must be carried out in accordance with the Council's agreed procedures set out in Appendix 1 to this Code. A site visit is not part of the formal committee proceedings and is not a forum for debate or making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or as an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

#### **4. Administrative Matters**

##### **4.1 Member Training**

Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally at meetings or as briefing notes (for example in the Members' Bulletin). Officers will arrange an annual mandatory training session for Councillors who are members or substitute members of Planning Committee. This training must be undertaken prior to any elected Member participating in decision making at Planning Committee. All members of the Council who are not on Planning Committee or a substitute member of planning committee will be invited to attend on a voluntary basis. Officers will arrange and offer (in consultation with the Chair of Planning) a programme of topic focussed training to run throughout the year. Topics to include review of decision made, visits to implemented schemes and updates on changes to planning law. It is recommended that Members of the planning committee undertake a minimum of 5 hours planning training per year.

##### **4.2 Monitoring of Decisions**

The Council should monitor planning decisions taken, on an annual basis, both in terms of quality and consistency. Annually, councillors will visit a sample of implemented planning permissions to assess the quality of the decisions.

The committee should formally consider the annual report and decide whether it gives rise to the need to review any policies or practices. The review may include information identifying the number of cases where officers' recommendations were not accepted and the outcome of any related appeal decisions. The results

of the monitoring will be reported to councillors along with any recommendations to improve quality, consistency or performance.

## **APPENDIX 2**

### **PROCEDURE FOR PARISH/TOWN COUNCIL REPRESENTATIVES/ MEMBERS OF THE PUBLIC ATTENDING MEETINGS OF THE PLANNING COMMITTEE**

#### **1. Agendas**

1.1 The Council will send out the agenda for all committee meetings to all parish and town councils, unless a parish/town council has specifically requested not to receive any agendas.

1.2 The agenda will be sent out a week before the meeting.

1.3 All relevant reports and background documents will be published online.

#### **2. Attendance by Parish/Town Councillors and Members of the Public**

2.1 Town/parish councils and applicants/agents, objectors and supporters may make representations on all applications.

2.2 Two representatives of the town or parish council may also attend site visits.  
(see Procedure for Members' Site Visits above).

2.3. A town or parish council representative and members of the public may attend the meeting and speak on any application.

2.4 To allow those who have applied to make representations to be heard by the committee on items on the agenda for the meeting; and to get through the agenda expeditiously to avoid delay to applications and wasted journeys by the public, the following protocol will be applied:

2.5 Speakers must first register with the Democratic Services Officer at Uttlesford District Council (telephone 01799 510410) or email: [committee@uttlesford.gov.uk](mailto:committee@uttlesford.gov.uk) by 2pm on the day before the meeting.

2.6 The order of speaking for each application will be as follows

1. Non-committee member
2. Supporters
3. Objectors
4. Town or parish council
5. Applicant or Agent

2.7 A non-committee member may speak for up to 5 minutes. A town/parish council representative may also speak for up to 5 minutes. Up to ten members of the public may speak for up to 15 minutes in total in support. Up to ten members of the public may speak for up to 15 minutes in total in objection (in the case of highly contentious 'strategic applications', the Chair may exercise his/her discretion to allow a further 10 minutes bringing the total speaking time for each group to 25 minutes). Applicants and their representatives may speak for the same time as those speaking against (non-committee members, town/parish council, and objectors). In the event there are no speakers in objection to the application and the application is recommended for refusal, the applicant will be given the right to speak for up to 5 minutes. If an application is recommended for approval and there are no registered speakers against the application the applicant/agent will not have the right to make representations but may be asked points of clarification by Members of the planning committee.

2.8 At the meeting those making representations should sit in the public area until the relevant item is to be considered.

2.9 Those making representations will be called to sit at the allotted desk alongside Councillors to make their statement and having made their statement should then return to the public area (or leave the meeting).



2.10 Those making representations should not seek to circulate materials at the meeting. If new or further material is to be allowed following the publication of the Committee papers it should be received by democratic services officers by 2pm the day before the meeting.

2.11 Written statements from third parties will not be read out in lieu of a speaker making representations in person. Statements will be included in the papers where received in time. This does not apply to statements received from district Councillors.

## **PROTOCOL FOR CALLING IN PLANNING APPLICATIONS**

### **1. Introduction**

1.1. Uttlesford District Council is the local planning authority for the district of Uttlesford. As such it is responsible for taking decisions on planning applications within the District. Under the Town and Country Planning Act 1990 decisions on planning applications must be taken in accordance with the development plan unless material planning considerations indicate otherwise.

1.2. Most applications are dealt with by officers under delegated powers. Officers have power to refuse any applications which are not in accordance with the development plan and have delegated authority to grant planning permission in specified cases where the proposed development does accord with the development plan. The full scope of the delegated powers can be found in the Members' Handbook.

1.3. This protocol sets out the procedures to be followed when a Councillor wishes an application for planning permission which can be dealt with by officers under delegated powers to be considered by the Planning Committee ("calling in an application").

### **2. Procedure for calling in an application**

2.1. Any member of the council may call in an application which would fall to be dealt with by officers under delegated powers regardless of where the application site is situated within the District.

2.2. If a Councillor is considering calling in an application for a site in a ward in respect of which that Councillor is not a ward Councillor then before calling in the application the Councillor shall inform the Councillor or Councillors for that ward of the intention to do so.

2.3. A request for a planning application to be called in must be:-

2.3.1. In writing (including e-mail to [memberplanningcasework@uttlesford.gov.uk](mailto:memberplanningcasework@uttlesford.gov.uk) or the Head of Development Management);

2.3.2. Made within 4 weeks of the validation date (which may be ascertained from the Council's website);

2.3.3. State if the application is to be called in if the officer recommendation is for approval or refusal (but not both);

2.3.4. Give valid planning reasons for requesting that the application be called in.

### **3. Invalid call-ins**

3.1. A request for a call-in may be rejected by the Strategic Director of Planning if s/he is not satisfied that the reasons given for the call-in are planning reasons.

3.2. An application should not be called in merely because it is controversial. Applications should only be called in where there are planning reasons for disagreeing with the officer recommendation.

3.3. Councillors should not call in an application because they are requested to do so by an applicant, an objector or a parish or town council unless the Councillor concerned is satisfied that there are planning reasons for disagreeing with the officer recommendation.

3.4. Councillors should not call in an application made by or opposed by a related person (as defined by the Code of Conduct of Uttlesford District Council) under any circumstances.