

**SECTION 8  
REGULATORY AND OTHER COMMITTEES**

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## CHAPTER 8.1 - PLANNING COMMITTEE'S TERMS OF REFERENCE

### 8.1.1

The Planning Committee will carry out functions relating to town and country planning, highways and public rights of way as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) save for those contained in Part III of the Wildlife and Countryside Act 1981 and those which have not been delegated to the Assistant Director Planning. The Planning Committee will determine planning applications where the recommendation is to be as follows: -

- a) Approval of full and outline applications for new dwellings falling into the 'major' category defined by Government with the exception of 1) minerals or waste proposals (see 'e' below). For clarification, "full and outline applications" excludes variation (S73 and 73A) and reserved matters applications and, excludes applications where the number of dwellings is 9 or less but the site area is greater than 1 hectare.)
- b) Approval of any matter the Committee has resolved it wishes to consider.
- c) Approval of the total or substantial demolition of Listed Buildings.
- d) Raising no objection to consultations from other Authorities where such proposals would significantly affect the Borough.
- e) Approval of applications for the creation of new Minerals and Waste sites.
- f) Approval of major departures from the Development Plan.
- g) Approval of applications where there is a legal agreement with a financial contribution which is contested by the applicant.
- h) Approval of applications submitted by or on behalf of a Borough Councillor.
- i) Approval of applications from, by or on behalf of (either solely or jointly with any other party) the Borough Council for schools which give rise to the employment of any more staff or pupils; or involves a net increase in development of more than 100 sq m. of floorspace at a school.
- j) Determination of any application not in the above categories at the discretion of the Assistant Director Planning.
- k) Approval of applications by or on behalf of a member of staff that has a role or involvement in the planning process, eg anyone working in the Planning or Property sections or a member of the Corporate Leadership Team.
- l) Applications where the Ward Member(s), or consultations where the affected Ward Member(s), wish(es) the item to be 'listed'. This is conditional in that the listing must: -
  - i) Be in writing and within 21 days of the notification letter;

- ii) state whether it applies if the recommendation is to approve or refuse (not both); and
  - iii) be accompanied by a material planning reason for the request.
- m) Applications by any person in respect of a decision to designate / de-designate a building as a Building of Traditional Local Character. This is conditional in that the application must be made within eight weeks beginning with the day on which written confirmation of the decision was issued to the relevant parties (unless a longer period is agreed by either the Chairman of the Planning Committee or the Director Place and Growth).
- n) Where an application is refused by the Planning Committee which is subject to reasons for refusal based on Affordable Housing and/or Infrastructure policies, but those reasons were omitted at the time of the decision, the addition of those reasons are delegated to the Director Place and Growth in consultation with the Chairman of the Planning Committee on condition that the delegation is exercised before the issue of the planning decision.

Note: In disputed cases the Chairman of the Planning Committee's decision will be final

## **CHAPTER 8.2 - PLANNING COMMITTEE PROCEDURE RULES**

### **8.2.1 Meetings of the Planning Committee**

The Planning Committee shall meet as scheduled in the Timetable of Meetings agreed by Council. Meetings of the Committee will be held at the Council's main offices or another location to be agreed by the Chairman. Meetings will be held in public and the Access to Information Rules in Chapter 3.2 of this Constitution set out the requirements covering public meetings.

Extraordinary meetings of the Planning Committee may be called at any time by the Chairman or, in his/her absence, the Vice Chairman of the Committee or by the Chief Executive if he/she considers it necessary or appropriate. The business to be conducted at an extraordinary meeting of the Planning Committee shall usually be a single item only and there shall be no consideration of previous minutes.

### **8.2.2 Public and Member Questions**

No public or Member questions may be asked at Planning Committee meetings.

### **8.2.3 Petitions**

Petitions will not be accepted at meetings of the Planning Committee. In the normal course of events, petitions relating to a particular planning application would be presented to the case Officer as part of the normal consultation process and outlined in the Officer's report to the Committee, if the application has not been delegated to Officers for determination. Petitions may, however, be submitted at meetings of full Council provided they are of a general nature. Details of the Council's Petition Protocol can be found at Chapter 3.5.

### **8.2.4 Quorum**

The quorum of a meeting of the Planning Committee will be one quarter of the whole number of Members or three, whichever is the greater.

## **Procedure at Meetings**

### **8.2.5 Public Speaking Rights**

The following persons are permitted to attend or send a representative to address the Committee in relation to any planning application brought forward for determination by the Planning Committee:

- a) Parish and Town Councils (3 minutes in total);
- b) Objectors (3 minutes in total);
- c) The applicant, their agent and supporters (3 minutes in total).

All parties wishing to address the Committee must register their intention to speak with Democratic Services by 5.00pm on the day prior to the meeting. Objectors and supporters, other than the applicant or their agent, must live within the ward(s) of the relevant application under consideration or be directly affected by the proposed development (or have been asked to speak by someone who meets either of these criteria). When registering to speak you must provide evidence of which of these criteria you are speaking under.

The total time allowed for speeches in respect of each of the groups of speakers shown above shall not exceed three minutes. Another period may be allowed at the discretion of the Chairman. In relation to a single person or representative they shall not be entitled to speak for more than three minutes or to speak in more than one capacity.

Where more than one person attends in respect of any of the groups set out in a), b) or c) above they may either nominate a spokesperson or share the time.

Further detailed information on public speaking rights is set out in the leaflet "Speaking on Planning Applications" which is sent out to all parties making written representations on a particular application.

### **8.2.6 Disturbance by Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

### **8.2.7 Speaking by Members other than Planning Committee Members**

Members of the Council who are not Members of the Planning Committee may at the discretion of the Chairman also address the Committee. However this right will normally be restricted to Members from the Ward in which an application is situated. Local Ward Members will be allowed to speak once, for a maximum of three minutes total, shared between all registered relevant Ward Members. If the Member who wishes to speak is not the relevant Ward Member they will need to provide evidence that their residents are directly affected by the proposed development. Ward Members directly affected by the proposed development should register to speak as either a supporter or objector as appropriate. In cases of applications situated in a single members ward and the Ward Member is directly affected by the proposed development, a Ward Member from an adjoining ward may be requested to speak on others' behalf.

Members must register their intention to speak either in support or objection to an application as appropriate with Democratic Services by 5.00pm on the day prior to the meeting.

### **8.2.8 Rules of Debate**

Debates at the Planning Committee shall take place as follows:

- a) The Officer will put forward his/her recommendation prior to the application being debated. Following the debate, a member of the Committee will either propose the Officer recommendation or an alternative proposal, both of which will need to be seconded. The Officer recommendation or alternative proposal will then be voted upon;
- b) If a Member wishes to make a proposal to negate the Officer's recommendation, they may formally propose a Motion if nothing has yet been moved. If proposing the refusal or approval of an application against the Officer recommendation, clear planning reasons for the proposal must be given in order for it to be acceptable. This applies equally to proposals to defer the application for a site

visit. If such a Motion is passed it becomes the Committee decision. If defeated, then another Member may propose the Officer's recommendation;

- c) A Member may propose an amendment to vary the decision, for example, to remove a refusal reason or remove/vary conditions. The usual rules relating to voting on an amendment apply
- d) It is important to note that, if a Motion to refuse an Application is proposed, seconded and defeated, no further Motion to refuse may be moved. This also applies if a Motion to approve is defeated;
- e) In the rare event that Motions to approve and refuse an application are both declared lost, the application will be deemed to have been determined in accordance with the Officer recommendation.

### **8.2.9 Duration of Meeting**

As set out in Chapter 4.2, unless the majority of Members present vote for the meeting to continue, any meeting of the Planning Committee that has not concluded by 10.30pm will adjourn immediately. If, once a Motion to continue has been proposed and seconded, the majority of Members present vote to continue, the meeting will continue for a further period not exceeding 30 minutes.

Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.



## **CHAPTER 8.3 - PLANNING MEMBER GUIDELINES ON GOOD PRACTICE**

### **8.3.1 Background**

These Guidelines on Good Practice were prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and in consultation with the District Audit Service, Local Government Ombudsman and the Standards Board for England. The Guidelines were updated in light of the adoption by the Council of a revised Model Code of Conduct in July 2007.

### **8.3.2 Introduction**

The aim of these guidelines is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

#### **8.3.2.1**

The key purpose of Planning is to control development in the public interest.

#### **8.3.2.2**

Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

#### **8.3.2.3**

These guidelines apply to Members at all times when involving themselves in the planning process. This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies equally to planning enforcement matters or site specific policy issues and to planning applications.

#### **8.3.2.4**

If you have any doubts about the application of these guidelines to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

### **8.3.3 Relationship to The Members' Code Of Conduct**

Do apply the rules in the Members' Code of Conduct first, which must always be complied with.

#### **8.3.3.1**

Do then apply the guidelines in this document, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by these guidelines, you may put:

- a) the Council at risk of proceedings on the legality or maladministration of the related decision; and
- b) yourself at risk of being the subject of a complaint made to the Standards Committee.

### **8.3.4 Development Proposals and Interests under the Members' Code**

Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

#### **8.3.4.1**

Do then act accordingly. Where your interest is personal and prejudicial:

- a) Don't try to represent Ward views, get another local Member to do so instead.
- b) Don't get involved in the processing of the application.
- c) Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with Officers or Members when other members of the public would not have the same opportunity to do so.
- d) Do attend a meeting in order to represent a proposal. The revised Code of Conduct aims to provide Members with as many of the rights of ordinary members of the public as possible. You may make representations at the meeting in the same way as a member of the public is allowed to even if you have a prejudicial interest. You must not take part in any discussion or voting. You must leave the room immediately after you have made your representation or answered questions, before any debate starts. If the meeting decides that you should finish speaking you **must** comply with that decision. Although members of the public may be allowed to observe the voting and discussion on the matter you are not to do so. Failure not to leave the room at this point may be viewed as an attempt to improperly influence the meeting.
- e) Do notify the Monitoring Officer (Head of Governance and Improvement Services) in writing of your own planning application and note that:
  - i) notification to the Monitoring Officer should be made no later than submission of the application;
  - ii) the proposal will always be reported to the Committee as a main item and not dealt with by Officers under delegated powers; and
  - iii) it is advisable that you employ an agent to act on your behalf on the proposal in dealing with Officers.

### **8.3.5 Fettering Discretion in the Planning Process.**

Fettering your discretion in the planning process can be defined as making up your mind, or appearing to have done so, before the matter has been formally considered.

#### **8.3.5.1**

**Don't** jeopardise your ability to participate in planning decision making by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter before it is formally considered by the Planning Committee, when you will have the opportunity to hear the Officer's presentation and evidence and arguments on both sides

### **8.3.5.2**

**Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

### **8.3.5.3**

**Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).

### **8.3.5.4**

Under the Code of Conduct, membership of any of the organisations listed below will not necessarily mean you have a prejudicial interest in their matters. Do be aware, however, that you should ALWAYS declare a personal and prejudicial interest where:

- a) you have been significantly involved in the preparation, submission or advocacy of a planning application on behalf of:
  - i) another local or public authority of which you are a member; or
  - ii) a body to which you have been appointed or nominated by the Council as its representative; or
  - iii) you are a trustee or company director of the body submitting the proposal and were appointed by the Council.

### **8.3.5.5**

**Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example), provided:

- a) the proposal does not substantially affect the well being or financial standing of the consultee body;
- b) you make it clear to the consultee body that:
  - i) your views are expressed on the limited information before you only;
  - ii) you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, Ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
  - iii) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - iv) you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.

### **8.3.6 Contact with Applicants, Developers and Objectors**

**Do** refer those who approach you for planning, procedural or technical advice to Officers.

#### **8.3.6.1**

**Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Head of Development Management and Enforcement to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and a note that a meeting took place, made on the application file.

#### **8.3.6.2**

In addition in respect of presentations by applicants/developers after an application has been submitted:

- a) **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- b) **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- c) **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- d) **Do** be aware that a presentation is a form of lobbying and you must not express any view or state how you or other Members might vote.

### **8.3.7 Lobbying of Councillors**

**Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

#### **8.3.7.1**

**Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

#### **8.3.7.2.**

**Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25 in accordance with the Members' Code of Conduct.

#### **8.3.7.3**

**Do** copy or pass on any lobbying correspondence you receive to the Head of Development Management and Regulatory Services at the earliest opportunity.

#### **8.3.7.4**

**Do** promptly refer to the Head of Development Management and Regulatory Services any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

#### **8.3.7.5**

**Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers to follow the matter up.

#### **8.3.7.6**

**Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or failed to follow these guidelines through:

- a) listening or receiving viewpoints from residents or other interested parties;
- b) making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
- c) seeking information through appropriate channels; or
- d) being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or Ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

### **8.3.8 Lobbying by Councillors**

**Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.

#### **8.3.8.1**

**Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

#### **8.3.8.2**

**Don't** lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken

#### **8.3.8.3**

**Don't** decide or discuss how to vote on any application at any sort of Political Group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

### **8.3.9 Site Visits**

**Do** try to attend site visits organised by the Council.

#### **8.3.9.1**

**Don't** request a site visit unless you feel it is strictly necessary because:

- a) particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- b) there are significant policy or precedent implications and specific site factors need to be carefully addressed.

#### **8.3.9.2**

**Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.

#### **8.3.9.3**

**Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

#### **8.3.9.4**

**Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

#### **8.3.9.5**

**Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the Officer present.

#### **8.3.9.6**

**Don't** express opinions or views to anyone.

#### **8.3.9.7**

If viewing a site other than as part of the formally-arranged Committee site visit, do not discuss the application with the applicant, agent or objectors.

### **8.3.10 Public Speaking at Meetings**

**Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.

#### **8.3.10.1**

**Do** ensure that you comply with the Council's procedures in respect of public speaking.

### **8.3.11 Officers**

**Don't** put pressure on Officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Case Officer, which may be incorporated into any Committee report).

#### **8.3.11.1**

If you wish to discuss a particular application, please approach the Case officer in the first instance. It would be helpful if you make an appointment.

#### **8.3.11.2**

**Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

#### **8.3.12 Decision Making**

**Do** ensure that, if you request a proposal to go before the Committee rather than be determined through Officer delegation, your clear planning reasons are recorded and repeated in the report to the Committee. If you are a Member of the Committee, ensure also that, whilst raising planning concerns, you do not present a clear view for or against an application. In doing so you would be fettering your discretion.

#### **8.3.12.1**

**Do** comply with section 54A of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

#### **8.3.12.2**

When making any decision you must only consider the planning merits of the application against the Local Plan, adopted local and national planning policies and any other material planning considerations relevant to the proposal being considered. Ordinarily, this information is within the planning officers report, the submitted planning documentation, information presented at the meeting or at the site visit (if applicable) and planning considerations presented by the public speakers and members of the committee. All other matters are not relevant and should not be considered in the decision-making process. In essence, every member of the committee must exercise their planning judgement solely based upon planning merits. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, seek to have the application deferred.

#### **8.3.12.3**

**Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the Officers' introduction to the matter.

#### **8.3.12.4**

**Do** have recorded the reasons for the Committee's decision to defer any proposal.

#### **8.3.12.5**

**Do** make sure that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

### **8.3.13 Training**

**Don't** participate in decision making at meetings dealing with planning matters if you have not attended planning training sessions that may be prescribed by the Council.

#### **8.3.13.1**

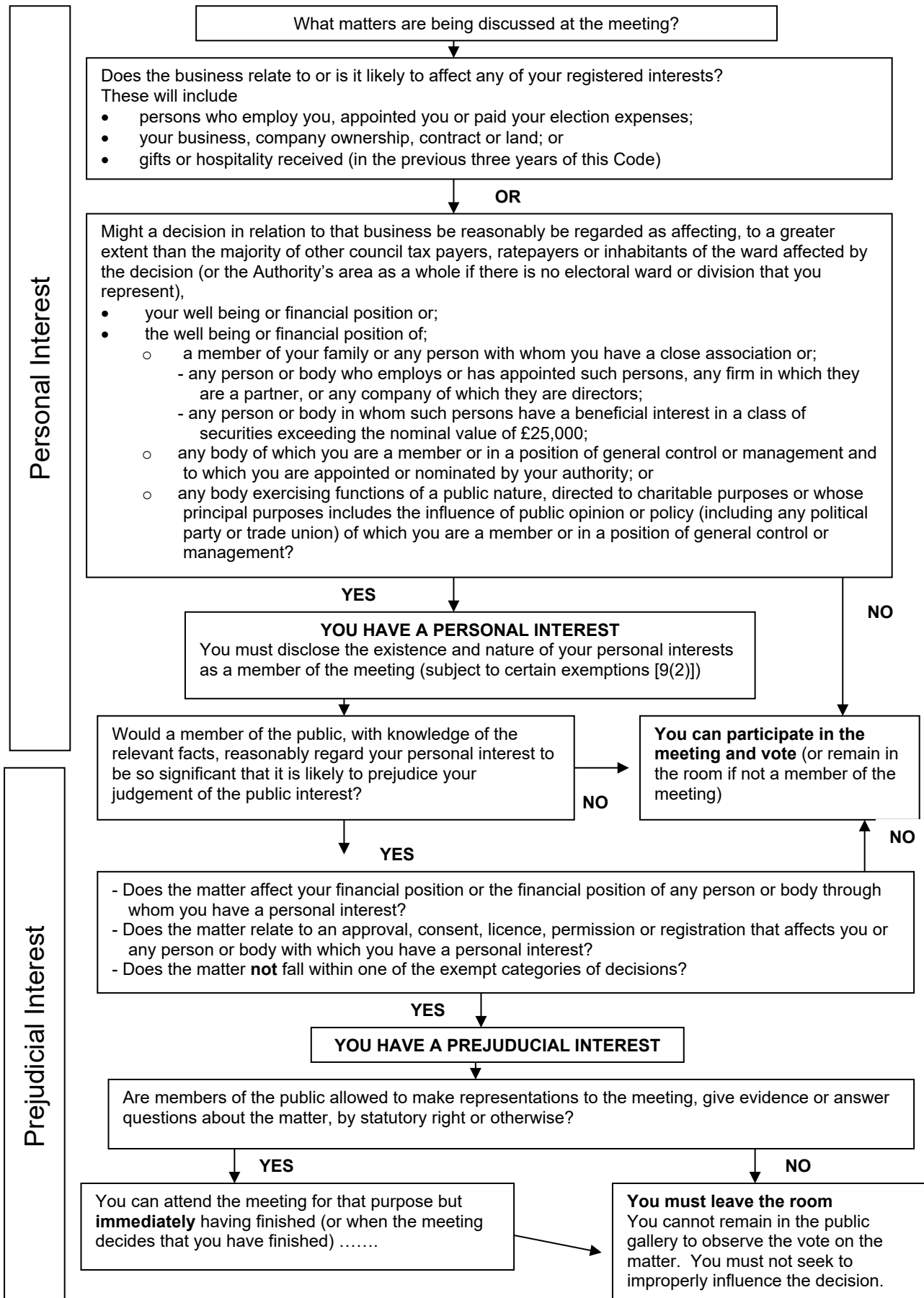
**Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

#### **8.3.13.2**

**Do** participate in any review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.



## DECLARING INTERESTS FLOWCHART - QUESTIONS TO ASK YOURSELF (Non Overview and Scrutiny Meetings)



**Appendix A**

**Procedure for Appeals relating to Building of  
Traditional Local Character ([Rule 8.1.1m](#))**

- 1 Requests for an appeal against the original decision of the Council in respect of a request to designate an asset as a Building of Traditional Local Character can be made by any person or body.
- 2 The request for the review must be made to the Council in writing by any person. This must be received within eight weeks beginning with the day on which written confirmation of the decision was issued to the relevant parties listed above. The Council is able to allow longer periods for submitting a review.
- 3 In considering the request for a review an original decision about whether to include an asset on 'The List', the Council will take into account the following factors:-
  - a The eligibility of the building against the Criteria and Procedure for Considering a Nomination for Listing as a Building of Traditional Local Character (as set out in The Procedure for Adding or Updating a Building on 'The List')
  - b Any new factors that have come to light since the original decision was made. For example, removal of a building from 'The List' may be appropriate in circumstances where it no longer meets the criteria for selection, has been demolished, or has undergone development changes that have negatively impacted on its significance.
  - c Any matter put forward that the Council cannot consider in assessing whether the asset should be designated (i.e. Matters not included in the Criteria and Procedure for Considering a Nomination for Listing as a Building of Traditional Local Character)
- 4 The Council will not take any financial or commercial issues into account in the decision to include a building on 'The List'.
- 5 All valid review requests that meet the requirement set out in this procedure will be assessed by the Planning Committee which will have the final decision on whether the asset will be included on "The List".

## **CHAPTER 8.4 - LICENSING AND APPEALS COMMITTEE PROCEDURE RULES**

### **8.4.1 Function and Composition of the Licensing and Appeals Committee**

The Licensing and Appeals Committee is responsible for:-

- a) carrying out functions relating to licensing and registration as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (the Functions Regulations);
- b) carrying out functions relating to licensing and registration as set out in the Licensing Act 2003 and Gambling Act 2005;
- c) carrying out functions relating to the setting of fees, as set out in the Gambling Act 2005, as delegated by Council;
- d) the exercise of functions relating to health and safety under 'any relevant statutory provision' within the meaning of Part I of the Health and Safety at Work Act 1974 to the extent those functions are discharged otherwise than in the Council's capacity as employer;
- e) considering any specific matters referred by Council;
- f) consideration of applications where objections have been received, through individual panels, in relation to the functions of licensing and registration as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) except applications made in connection with Hackney Carriage and Private Hire Driver, Operator and Vehicle Licensing; and
- g) consideration of appeals, through individual panels, in relation to the granting of and conditions imposed upon licences relating to taxi, food, street trading, school accredited driver, and other miscellaneous issues.

The Licensing and Appeals Committee is composed of 14 Members of the Authority appointed annually by the Council. Appointments shall be subject to the rules of political balance.

### **8.4.2 Meetings of the Licensing and Appeals Committee**

The Licensing and Appeals Committee shall schedule a minimum of four meetings per Municipal Year, as scheduled in the Timetable of Meetings, agreed by Council. Meetings of the Committee will be held at the Council's main offices or another location to be agreed by the Chairman. Meetings will be held in public and the Access to Information Rules in Chapter 3.2 of this Constitution set out the requirements covering public meetings.

Extraordinary meetings of the Licensing and Appeals Committee may be called at any time by the Chairman or, in his/her absence, the Vice Chairman of the Committee or by the Chief Executive if he/she considers it necessary or appropriate. The business to be conducted at an extraordinary meeting of the Licensing and Appeals Committee shall usually be a single item only and there shall be no consideration of previous minutes.

### **8.4.3 Public and Member Questions**

Public and Member questions can be asked in accordance with the requirements set out in Chapter 4.2 of this Constitution.

### **8.4.4 Petitions**

Petitions can be submitted to the Licensing and Appeals Committee subject to the requirements of the Council's Petition Protocol described in Chapter 3.5 of this Constitution.

### **8.4.5 Quorum**

The quorum of a meeting of the Licensing and Appeals Committee will be one quarter of the whole number of Members or three, whichever is the greater.

## **Procedure at Meetings**

### **8.4.6 Speaking Rights**

A Member of the Council who is not a Member of the Committee shall be entitled to attend and speak (but not vote) at any full meeting of the Licensing and Appeals Committee. Members attending under this provision shall tell the Chairman of the Committee in advance that they will be attending.

At the meetings of the Licensing and Appeals Committee after each main presentation, members of the public and other organisations present may be allowed to speak (through the Chair). Any statements from speakers must be relevant to the item or presentation just received. Speaking time will be limited to 5 minutes per item at the discretion of the Chairman.

Speaking rights relating to Hearings and Appeals constituted by the Licensing and Appeals Committee are described in the procedures in [Rule 8.4.10](#).

### **8.4.7 Disturbance by Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

Debate at Hearings and Appeals shall take place in accordance with the procedures described in [Rule 8.4.10](#).

### **8.4.8 Duration of Meeting**

As set out in Chapter 4.2 unless the majority of Members present vote for the meeting to continue, any meeting of the Licensing and Appeals Committee that has not concluded by 10.30pm will adjourn immediately. If, once a Motion to continue has been proposed and seconded, the majority of Members present vote to continue, the meeting will continue for a further period not exceeding 30 minutes.

Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.

#### **8.4.9 Licensing and Appeals Sub-Committee Procedure Rules**

Hearings held under the Licensing Act 2003 shall be considered by a Sub-Committee comprising three Members of the Licensing and Appeals Committee.

In accordance with the Licensing Act 2003 (Hearings) Regulations (as amended), all Hearings to determine applications under the Act shall be considered in accordance with procedures agreed by the Licensing and Appeals Committee. Details of the procedure to be followed for each type of hearing will be circulated beforehand to all parties to the hearing. Procedures shall be based on the principles of natural justice and Article 6 of the Human Rights Act, the right to a fair hearing.

There is no requirement for Sub-Committees to be politically balanced. However, every effort will be made to ensure that wherever possible Sub-Committees are politically balanced.

#### **8.4.10 Hearings and Appeals to Determine All Other Matters Listed in [Rule 8.4.1\(f\)](#) and [Rule 8.4.1\(g\)](#)**

Hearings held to determine all other matters listed in [Rule 8.4.1\(f\)](#) and [Rule 8.4.1\(g\)](#) shall be considered by a Sub Committee comprising three Members of the Licensing and Appeals Committee. Details of the procedure to be followed for each type of hearing will be circulated beforehand to all parties to the hearing.

##### **8.4.10.1**

The quorum of a Hearing or Appeals Panel shall be three Members.

##### **8.4.10.2**

The procedure to be followed at Hearings and Appeals relating to the other matters listed in [Rule 8.4.1\(f\)](#) and [Rule 8.4.1\(g\)](#) shall be determined by other legislative or constitutional arrangements maintained by the Democratic Services Section.

In all cases, all parties involved with a Hearing or Appeal shall be informed of the procedure to be followed in advance of the Hearing or Appeal. Those procedures shall be founded upon the principles of natural justice and Article 6 of the Human Rights Act, the right to a fair hearing.

#### **8.4.11 Members ability to make Representations or Call for Reviews**

Under the Licensing Act 2003 Members are able to make representations and call for reviews in relation to premises licences and club premises certificate applications in any ward in the Authority's area provided these are made on the grounds of one or more of the licensing objectives, which are:

- a) the prevention of crime and disorder;
- b) the prevention of public nuisance;
- c) public safety; and
- d) the protection of children from harm.

#### **8.4.11.1**

Representations or applications for review on grounds other than those set out in [Rule 8.4.12](#) cannot be considered. Representations that are considered to be frivolous or vexatious will also be disregarded.

#### **8.4.11.2**

All representations or applications for review must:

- a) be in writing, showing the name and address of the author (the representation/review application must be published as part of the process);
- b) clearly set out the likely effects the granting of the licence would have on the promotion of at least one of the licensing objectives;
- c) present evidence in support of the representation or review.

#### **8.4.11.3**

Although Parish/Town Councillors are not interested parties in their own right, they can be involved as representatives of interested parties, including the Parish/Town Council itself.

## **CHAPTER 8.5 - HIGHWAYS CONSULTATIVE BOARD PROCEDURE RULES**

This board was disbanded in July 2007 and its functions relating to highways and public rights of way as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) are now included within the Planning Committee's Term of Reference as set out in [Chapter 8.1](#)

All other functions requiring Executive approval will be dealt with accordingly.

## **CHAPTER 8.6 - PERSONNEL BOARD PROCEDURE RULES**

### **8.6.1 Function and Composition of the Personnel Board**

The Personnel Board shall comprise seven Members of the Authority, appointed by the Council in accordance with the rules of political balance. At least one Member of the Board shall be a Member of the Executive. In addition, Council shall appoint substitute Members who shall be entitled to deputise for, and inherit the voting rights of, a Member of the Board when the appointment of permanent Assistant Directors or the appointment or dismissal of or disciplinary action in respect of the Head of Paid Service or Directors is being considered.

The Personnel Board's functions shall be as follows:

- a) To deal with the appointment and Terms and Conditions of service of the Head of Paid Service. Directors and Assistant Directors. In relation to the Head of Paid Service, the Personnel Board shall make a recommendation to the Council;
- b) To discharge the Council's functions relating to the appointment of Assistant Directors and the appointment, dismissal or disciplinary action in respect of the Head of Paid Service, or Directors;
- c) To determine the Terms and Conditions of service of all non teaching staff (including procedures for dismissal);
- d) To receive staffing updates and make recommendations to the Council, when considered necessary, in relation to major reorganisations within the Council which would put at risk of redundancy more than 20 staff;
- e) To determine requests for early retirement and redundancy in respect of all staff directly employed by the Council where:
  - i there is a request for the Council to exercise its discretions to enhance pension benefits and / or enhance redundancy compensation payments;
  - ii there are financial implications for which budgetary provision has not been made, and in which case make recommendations to the Executive for a Supplementary Estimate as appropriate.

Offers of employment shall be subject to no well-founded objections being received from any Members of the Executive.

### **8.6.2 Meetings of the Personnel Board**

The Personnel Board shall meet on an ad hoc basis on dates to be agreed by the Chief Executive in consultation with the Chairman of the Board.

### **8.6.3 Public and Member Questions**

Public and Member questions may be asked at Personnel Board meetings in accordance with the procedures set out in Chapter 4.2.

### **8.6.4 Petitions**

Petitions will not be accepted at meetings of the Personnel Board.



### **8.6.5 Quorum**

The quorum of a meeting of the Personnel Board will be three

### **8.6.6 Procedure at Ordinary Meetings**

Ordinary meetings of the Personnel Board shall be conducted in accordance with Council Rules of Procedure set out in Chapter 4.2.

### **8.6.7 Procedure for the Appointment of Head of Paid Service, Directors or Assistant Directors**

Meetings of the Personnel Board to shortlist, interview or appoint the Head of Paid Service, Directors or Assistant Directors shall be convened by the Chief Executive in consultation with the Chairman of the Board. For Director appointments the Head of Paid Service will attend all relevant recruitment meetings and provide advice to the Board. For Assistant Director appointments the relevant Director will attend all relevant recruitment meetings and provide advice to the Board. Detailed arrangements for the meetings shall be set out in the Agenda for the meeting which shall be dispatched in accordance with the normal Access to Information Procedure Rule set out in Chapter 3.2.

### **8.6.8 Disturbance by Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

### **8.6.9 Duration of Meeting**

As set out in Chapter 4.2 unless the majority of Members present vote for the meeting to continue, any meeting of the Personnel Board that has not concluded by 10.30pm will adjourn immediately. If, once a Motion to continue has been proposed and seconded, the majority of Members present vote to continue, the meeting will continue for a further period not exceeding 30 minutes.

Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.

## **SECTION 8.7 – SCHOOL TRANSPORT APPEALS PANEL**

### **8.7.1 Function and Composition of School Transport Appeals Panel**

The School Transport Appeals Panel shall comprise of a pool of Members which will be the same Members as are appointed to the Licensing and Appeals Committee. The Executive Member with responsibility for School Transport shall not be a member of this Panel, even if they are a member of the Licensing and Appeals Committee. Three Members from this pool will be selected to hear each appeal.

A Chairman will be appointed at the Panel Meeting.

### **8.7.2 Meetings of the School Transport Appeals Panel**

The School Transport Appeals Panel shall meet as and when required. Meetings will be convened by Democratic Services.

### **8.7.3 Public and Member Questions**

No public or Member questions may be asked at School Transport Appeals Panel meetings.

### **8.7.4 Quorum**

The quorum of a meeting of the School Transport Appeals Panel will be three.

### **8.7.5 Procedure at Meetings**

The procedure to be followed will be that previously agreed and set out in agendas.

## **CHAPTER 8.8 - COMMONS REGISTRATION COMMITTEE**

### **8.8.1 Functions of the Commons Registration Committee**

The Commons Registration Committee is responsible for:

- a) Carrying out functions relating to Commons Registration as set out in the Commons Registration Act 1965 and the Commons Act 2006;
- b) Determination of opposed applications for registration pursuant to section 15(1) of the Commons Act 2006.

### **8.8.2 Composition of the Committee**

The Commons Registration Committee shall comprise the same membership as that of the Planning Committee.

### **8.8.3 Meetings of the Commons Registration Committee**

The Commons Registration Committee shall meet when considered necessary by the Chairman (or in their absence the Vice Chairman) or the Chief Executive for the discharge of the functions listed above.

The business conducted at such meetings shall usually be a single item only. Meetings of the Committee shall be held at the Council's main offices or at another location agreed by the Chairman.

Meetings will be held in public and shall be held in accordance with the requirements for public meetings set out in the Access to Information Rules contained in Chapter 3.2 of this Constitution.

### **8.8.4 Public and Member Questions**

No public or Member questions may be asked at Commons Registration Committee meetings.

### **8.8.5 Petitions**

Petitions will not be accepted at meetings of the Commons Registration Committee.

### **8.8.6 Quorum**

The quorum of a meeting of the Commons Registration Committee will be one quarter of the whole number of Members or three, whichever is the greater.

### **8.8.7 Disturbance by the Public**

If a member of the public interrupts proceedings the Chairman will warn the person concerned. If they continue to interrupt the Chairman will order their removal from the meeting room.

If there is a general disturbance in any part of the meeting room open to the public the Chairman may call for that part to be cleared.

### **8.8.8 Procedure at Meetings to Determine Opposed Applications for Registration of New Town or Village Green following Non-Statutory Public Inquiry or a Hearing**

The procedure for meetings of the Commons Registration Committee shall be in accordance with principles of natural justice and Article 6 of the Human Rights Act 1998.

The procedure to be followed at such meetings will be in accordance with that agreed by Council.

In cases where it is clear to the Registration Authority that the application or objection has no substance, the Registration Authority will usually determine the application without holding a public inquiry and this is referred to as a Hearing. However, in any case where there is serious dispute, the Registration Authority will almost invariably need to appoint an independent expert to hold a non-statutory public inquiry in order to fully investigate the relevant facts and so obtain proper advice before determining the application. This process is referred to as an Inquiry and the procedure will be determined by the Inspector appointed by the authority. The Inspector will usually be a barrister having appropriate expertise in the relevant area of law.

- a) all persons who wish to address the Commons Registration Committee must inform Democratic Services at least 3 working days before the scheduled meeting. The spokesperson for the Applicant and for any of the Objectors will be agreed;
- b) Democratic Services will provide the Chairman with a list of all persons who have notified Democratic Services that they want to address the Committee in relation to the village green application;
- c) at the start of the meeting, the Chairman will introduce all the Members of the Sub-Committee and the Officers present;
- d) the Chairman will inform the meeting that they are required to determine an application received by the Council as the relevant Commons Registration Authority for the registration of land as a new town or village green and will outline the procedure to be applied to the conduct of the meeting;
- e) the Commons Registration Officer, or his/her representative, will be invited by the Chairman to present the report setting out the facts and the law relating to the application. The Inspector (if present) will provide a summary of his report;
- f) the Chairman will invite questions from the Committee to the Officers and the Inspector;
- g) the Chairman will then refer to the list of persons requesting to speak. The Chairman will remind them that the Committee will only hear their comments on the report and shall remind all those wishing to speak that the Inquiry or the Hearing was the forum for considering the evidence;
- h) the Chairman will inform any persons wishing to speak that under the Council's Constitution, each speaker, other than the Applicant and the Objector, will be allowed to speak for three minutes. The Applicant and the Objector will be given five minutes each to address the Committee. The Chairman shall have the discretion to stop a speaker at any time if he is of the view that the content is not relevant or is repetitive;
- i) each speaker will then introduce himself/herself and address the Committee. The Chairman will determine the order of the speakers;

- j) the Chairman will then ask questions of the speaker on behalf of the Committee. (N.B. Members of the public will not be able to ask the speaker any questions);
- k) if required, the Chairman may ask the Officer or Inspector to clarify any issues raised by the speakers. The Officer or Inspector can address the Committee on any matters they consider require clarification;
- l) when all the speakers have finished, the Committee will make a decision as to whether all or part of the land identified in the application should be registered as a new town or village green. The discussions of the Committee will be in the public domain and the decision making will be taken thereafter in private. The Committee shall state in full the reasons for their decision.

**COMMONS ACT 2006  
APPLICATION TO REGISTER LAND AS A NEW TOWN OR VILLAGE GREEN**

**WOKINGHAM BOROUGH COUNCIL  
('the Registration Authority')**

**PROCEDURE FOR A DISPUTED NEW TOWN OR VILLAGE GREEN APPLICATION**

1. The Registration Authority as Commons Registration Authority for the Borough acting through the Commons Registration Officer shall in compliance with the regulations issued from time to time pursuant to the Commons Act 2006 consider all representations received by the Council in objection to an application for the registration of land as a new town or village green.
2. After consideration of such representations and objections and after consultation (including with Counsel if necessary) a decision will be made by the Commons Registration Officer on the processing of the application:
  - 2.1 if a simple objection has been received, the application will be determined by way of a Hearing before the Commons Registration Committee ("the Committee") of the Registration Authority; or
  - 2.2 if a substantive objection has been received, the application will be determined by way of an Inquiry before an independent inspector or barrister having the appropriate expertise appointed by the Registration Authority.

The Applicant and any Objector(s) will be advised of the decision as to whether the application will be processed by way of a Hearing or an Inquiry.

3. The Applicant shall by no later than 28 days (or if an independent Inspector or Barrister is appointed to act in the matter, such other time limit as they shall specify) before the date set for the Hearing or Inquiry serve on the Registration Authority and on the Objector(s) the following: -
  - 3.1. A list of all the witnesses the Applicant intends to call to give evidence.
  - 3.2. If not already provided, signed written statements containing the evidence of each witness on which the Applicant intends to rely together with any documentary evidence on which the Applicant intends to rely.
  - 3.3 Where the matter is to be considered by way of an Inquiry with such other information as the inspector or barrister instructed to act shall require.
4. The Objector(s) shall by no later than 28 days (or if an independent Inspector or Barrister is appointed to act in the matter such other time limit as they shall so specify) before the date set for the Hearing or Inquiry serve on the Registration Authority and on the Applicant the following: -
  - 4.1. A list of all the witnesses the Objector intends to call to give evidence.

- 4.2. If not already provided, signed written statements containing the evidence of each witness on which the Objector intends to rely together with any documentary evidence on which the Objector intends to rely.
- 4.3 Where the matter is to be considered by way of an Inquiry with such other information as the Inspector or Barrister instructed to act shall require.
5. The Applicant and the Objector(s) shall by no later than 14 days (or if an independent Inspector or Barrister is appointed to act in the matter such other time limit as they shall so specify) before the date set for the Hearing or Inquiry serve on the Registration Authority and each other a case summary of any legal arguments that they intend to rely upon at the Hearing together with the full references of any legal authorities to be relied upon and any other additional information which may be required.
6. The date, time and venue of the Hearing or Inquiry as the case may be will be publicised by the Registration Authority in accordance with regulations made pursuant to the Commons Act 2006 in relation to Inquiries and in relation to a Hearing by: -
  - 6.1. Posting a notice on the Application Land for 14 days prior to the date of the Hearing;
  - 6.2. Publishing a notice in the local press in 2 separate weeks prior to the date of the Hearing and on the Council's web-site; and
  - 6.3. Displaying a notice at the Hearing or Inquiry venue during the days that the Panel or Inquiry as the case may be is sitting.
7. If the application is to be determined by way of a Hearing the Hearing shall be conducted in accordance with the terms of reference of the Commons Registration Committee and as follows, subject to any procedural changes made at the Chairman's discretion upon application by either party: -
  - 7.1. The Chairman will introduce himself/herself, the other Members of the Committee, the Clerk to the Committee, the Committee's advisors and identify the principal parties.
  - 7.2. The Chairman will receive any declarations of interest from Members of the Committee relating to the application.
  - 7.3. The Applicant shall be invited to make a short opening statement of no more than 5 minutes if he/she so wishes.
  - 7.4. The Objector(s) shall be invited to make a short opening statement of no more than 5 minutes if he/she so wishes.
  - 7.5. It shall be a matter for the Chairman's discretion whether he/she is prepared to hear any additional statement from any other interested party.
  - 7.6. The Chairman and Members of the Committee may ask questions of the Applicant, the Objector and any other interested party at any point during the Hearing.

- 7.7. The Applicant shall call each of his/her witnesses in turn, who will be subject to cross-examination by the Objectors, re-examination as appropriate and be asked any questions the Committee may have.
- 7.8. The Objector(s) shall call each of his/her witnesses in turn, who will be subject to cross-examination by the Applicant, re-examination as appropriate and be asked any questions the Committee may have.
- 7.9. The Objector(s) shall be invited to make any closing statement he/she wishes to make of not more than 5 minutes duration.
- 7.10. The Applicant shall be invited to make any closing statement he/she wishes to make of not more than 5 minutes duration.
8. If deemed appropriate, the Chairman may decide to make an accompanied site visit at a time to be arranged at the Hearing. The Chairman and Committee Members may make an unaccompanied visit to the Site prior to the date of the Hearing. (Note: these are site visits, not meetings).
9. The Chairman will formally close the Hearing and the Committee shall retire to deliberate upon the application. Such deliberations may include seeking specialist legal opinion on any issue arising. In determining the application the Committee shall take into account the following:
  - the contents of the application and any material accompanying it
  - any further information or evidence provided by the applicant
  - any written representations and objections
  - any further written representations provided by any party pursuant to an invitation of the Registration Authority
  - any oral representations made by any person
  - the findings made at the site visit
  - the evidence presented at the Hearing
  - any specialist legal opinion obtained
10. On closure of the Hearing and in line with Department for the Environment Food and Rural Affairs and Planning Inspectorate guidance and practice for public inquiries and hearings, the Committee shall make their decision as soon as practicable. The Committee will make every effort to reach a decision within 12 weeks after the closure of the Hearing or as soon as reasonably possible thereafter in the event that it is necessary to seek external advice or additional information. The decision shall include reasons for the decision and provide details of any changes required to be made to the Commons Register to give effect to the decision.
11. The decision of the Committee following closure of the Hearing shall be conveyed in writing to the applicant and every person who made written representations concerning the application by the Commons Registration Officer and the decision shall be published on the [Council's web-site](#).
12. If the application is being dealt with by way of an Inquiry, the inquiry shall be conducted in accordance with the directions of the Inspector or Barrister appointed by the Commons Registration Officer.



13. On conclusion of the Inquiry the Inspector or the Barrister shall prepare a report and a recommendation to the Council. The Commons Registration Officer shall send a copy of the Inspector or Barrister's report and the accompanying recommendation to the Applicant and the Objectors within 28 working days of receipt. The Applicant or the Objectors shall have 28 days from receipt to make comments to the Registration Authority on either the Inspector's Report or the recommendation as may be appropriate. The Commons Registration Officer shall prepare a report for consideration by the Committee which shall include a recommendation for the disposal of the application. The report shall include any comments received by the Applicant or any objector.
14. The Committee shall determine the application and the Commons Registration Officer shall give effect to the decision by amendment to the Commons Register as appropriate and by serving written notice of determination on the Applicant the Objector(s) and all other persons who made written representations in connection with the application and shall place notice of the decision on the [Council's web-site](#).

### **Right of Appeal**

The Commons (Registration of Town or Village Greens) (Interim Arrangements) Regulations 2007 No. 457) made under the Commons Act 2006 do not provide the means for challenging a decision made by the Commons Registration Authority on an application to register land as a new town or village green, so a decision by the Registration Authority is to be regarded as final and binding.

## Commons Registration Procedure

