

Appendix A

Planning Committee Process and Procedure

1. Introduction

This guide is intended to assist members of the public in understanding the Planning Committee processes and procedures.

Under the Local Government Act 2000 the Council is required to establish committees to undertake non-executive functions. Most planning matters are not executive functions and under the law they cannot be discharged by Cabinet. The Planning Committee deals with any planning and listed building applications and enforcement cases which fall outside of the agreed officer delegation scheme. Such applications generally are the more major and controversial schemes where consideration by committee is necessary.

2. Composition of the Committee

The committee comprises a total of 12 elected Chesterfield Borough councillors. Membership is split to reflect the political division of the Council. The quorum of the committee is three members. All members and officers present will display a name plaque directed toward the public gallery. All members of the committee will have received training on planning matters and on the Planning Code of Conduct. Training for committee members is ongoing and a record of member training is kept.

3. Committee Meetings – When and Where?

Planning Committee meets every three weeks on a Monday afternoon starting at 13:00. The meetings take place in the Town Hall and are preceded by site visits where appropriate. On some occasions it is necessary to hold the committee meeting in a larger venue. Planning Committee agendas will be published and available on the Council's website five clear working days prior to the meeting. This is in line with legal requirements. The dates of Planning Committee meetings together with past agendas and minutes are available on the Council's website at www.chesterfield.gov.uk The agenda can be found under Council Services tab – Your Council – Committees, meetings and decisions.

The Council has a number of rooms of different capacities which can be made available for planning committee. In order to ensure the correct sized room is allocated the letters sent out to interested parties advising of the planning committee date will seek confirmation of those who wish to attend to speak under the "My view, my voice" procedure or just to observe. This is to avoid a situation where people attending cannot access the room due to the limits on capacity.

4. How the committee Meeting is conducted

Who chairs the meeting?

The meeting will be chaired by the Chair of Planning Committee unless they have declared an interest in an item or are absent. In those cases the

appointed Vice Chair will preside (and if the Vice-Chair is absent the Committee can select a chair for the duration of the meeting). The order of business for the meeting may be changed at the discretion of the Chair for the convenience of the applicant / public in attendance or who wish to participate. At the start of each meeting and through the Chair, each member and officer present will introduce themselves to those members of the public in attendance. The chairperson will read out information concerning fire evacuation and alarms and a pre-prepared statement regarding meeting etiquette as follows:

“This meeting of planning committee is being held in public but is not a public meeting. Whilst some present will only be attending to observe, arrangements have been made in advance for individual objectors, applicants or agents to attend to address the meeting and you will be led through this process by me during the relevant item. Proposals being considered at planning committee can generate strong feelings by applicants and objectors and I request that all involved act in a professional, respectful and courteous manner. I would ask that at the end of the item you have attended for that you do not attempt to discuss matters with Members or Council Officers and that you leave the building as swiftly as possible. Can all present please ensure your phones are either turned off or placed on silent mode.”

Who may attend?

Planning committee is a meeting taking place in public rather than a public meeting. The public may therefore attend all meetings of the committee. The public are allowed to listen to the debate about each application and hear the decision that is made. In certain circumstances the public can speak at the committee meeting for a specified period, however they must have arranged this first with the planning and/or Democratic Services officers before the meeting. More information on speaking at planning committee is included in a separate guidance leaflet, “my view, my voice”. Apart from this the public are not permitted to take part in the meeting.

Since there are limits to the capacity of rooms where the meetings are held the letters which are sent out to interested parties will ask for confirmation of an intention to attend the meeting.

In some circumstances exempt or confidential information is considered. In those cases the press and public are excluded and a resolution is passed for this purpose.

What does the Committee do?

The meeting will usually comprise the following agenda items:

- Declarations of personal or prejudicial interest – Members and Officers
- A note taken of any apologies from members unable to attend
- Consideration of the minutes of the previous meeting
- Considering and deciding planning applications
- An appeals report
- The delegation report
- An enforcement report

- Consideration of any further matters within the committees Terms of Reference
- Any Late items
- Any exempt or confidential matters

How is Business Dealt With?

The Chair will announce each item. The Chair can vary the order of items on the agenda at their discretion.

There is normally a comprehensive written report for the item. This is available on the Council website five working days before the meeting. Members of the committee will have read each report before the meeting takes place and they will have had the opportunity to look at the case file, information and the plans and supporting information during the preceding week. Relevant drawings and photographs are displayed on the large screen in the committee room during the consideration of each item. The committee will have visited some of the sites. The planning officer will present a brief summary of the report, which is followed by any public speaking, which has been prearranged, and questions by members to those addressing the meeting in accordance with the separate public speaking protocol. The applicant will usually speak last in the order of speakers. The Chair will then ask committee members for any questions for officers, which is followed by a debate on the item by councillors and a decision resulting in a mover and seconder for a particular recommendation. Any councillors not present for the complete presentation and debate or have not attended the site visit will not be able to vote on the recommendation.

Committee members will ensure that they do not disrupt the decision process through discussion between themselves and by ensuring mobile phones are turned off. This will ensure that the committee process is viewed as a professional and transparent service. Members should also avoid eating snacks during the meeting.

It is usual practice for the committee to bring forward to an earlier part of the meeting those applications where notice has been given that applicants and objectors wish to speak or where members of the public have come to hear the debate. Prior to the start of the meeting the Democratic Services Officer attending will ask all those present which item they are attending for.

Although the committee will try and deal with applications which the public are interested in as soon as possible, often the agendas can be quite long and the committee may want to enter into detailed discussion and debate over particular cases. This means that the public may have to wait for some time however in notifying interested parties of the intention to report applications to particular committees, estimated times of consideration of the proposal will be given where possible so that delayed attendance for later items can be arranged where appropriate.

Where appropriate a comfort break will be taken generally after 2 hours at the discretion of the Chair.

Speaking at Committee

Addressing the committee by applicants and members of the public will be permitted in line with the separate speaking at committee protocol.

What is the basis for a decision?

Decisions must be based on material planning considerations, for example:

- Central Government, Regional or Local Plan Policy
- Highway safety
- Landscape Impact
- Local amenity, noise, privacy
- Case law and previous planning decisions
- Conservation of buildings, trees etc
- Appearance

The following are examples of matters not normally material planning issues:

- Affect on Property Values
- Ownership disputes
- Business Competition
- Moral considerations
- Restrictive covenants
- Personal circumstances
- Matters controlled by other legislation (eg licensing)

Even if many objections are received to an application, permission cannot be refused without good planning reasons. A retrospective application submitted after work has been carried out has to be determined like any other application on its own individual planning merits.

5. Voting

All members of committee are entitled to vote and the chair of the meeting has a second casting vote should the voting be equal. Decisions are made on the basis of a simple majority of votes cast. Voting will be by show of hands following a mover and seconder of a recommendation.

What decisions can the Committee make?

- *Approve the application*: Usually this will be subject to planning conditions, which must be reasonable and relate to the development proposed. Sometimes planning policy or other reasons to resolve issues with the application mean that a legal agreement will be required. These are called 'Section 106 Agreements', 'Planning Agreements' or 'Planning Obligations' and are made under Section 106 of the Town and Country Planning Act 1990 and will be required when a developer is required, for example, to pay a contribution towards healthcare facilities or affordable housing provision. These agreements are made separate from the meeting and any decision will be subject to satisfactory completion of the agreement.
- *Refuse the application*: Sound planning reasons must be given which the authority have to substantiate if the decision is challenged on

appeal. The applicant has a period of 6 months to lodge any appeal with the Planning Inspectorate (8 weeks for signage, householder and minor commercial).

- *Defer consideration of the application:* If members feel that they do not have enough information before them to make a decision or they consider a site visit is required, they may defer the application to a subsequent meeting. At the subsequent meeting only those members who have participated to the point of deferral should take part.

The agenda for the meeting consists of reports written by Council Planning Officers recommending a particular decision. Planning Committee members may vary or overturn the recommendations against the planning officer advice, however sound planning reasons must be given at the meeting for a decision different to the report recommendations. A separate guidance note deals with decisions taken against the advice of officers.

If a proposal which goes against the officer recommendation is moved and seconded this becomes an alternative proposal and the alternative proposal is always voted on first. If the alternative proposal is carried, the decision of the committee has been made. If however the alternative proposal is defeated, a vote must then be taken on the original recommendation. A decision must always be made on the item.

6. Recording of Decisions

Minutes of the meeting will be taken. These will also indicate any reasoning and changes to the recommendations. The minutes will be posted on the Council's website within 7 working days of the meeting.

7. What if you don't like the decision?

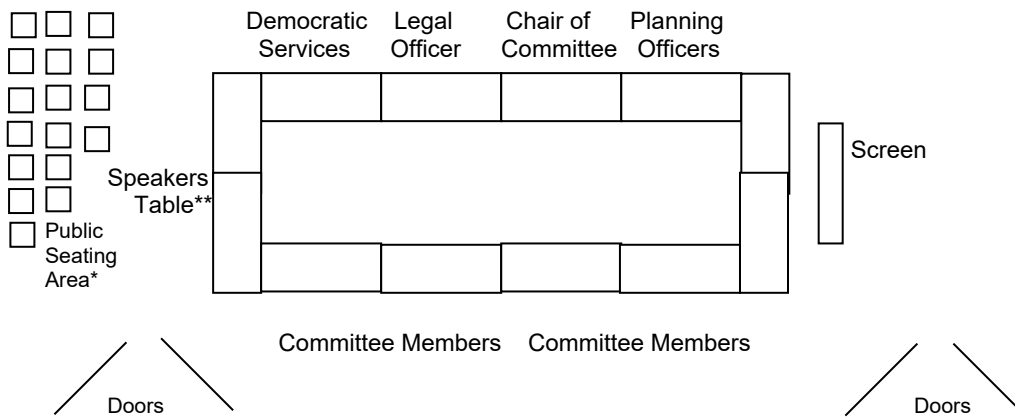
The Council will not tolerate abuse or threatening behaviour and may call for security or the police if necessary. The Chair has the right to request that disruptive individuals leave the meeting and/or to adjourn the meeting.

The applicant may appeal to the Planning Inspectorate against a refusal or the imposition of a condition.

A third party (e.g. an objector to or supporter of the application) has no right of appeal but the following actions are possible:

- Complaint under the Council's two stage complaints procedure;
- Complaint to the Local Government and Social Care Ombudsman about the way the application has been handled but not about the decision taken. This is not usually possible until the Council's complaints process has been exhausted;
- Seeking a legal challenge to the decision ('judicial review') in the High Court. This is lengthy and can be costly and independent legal advice should be taken before taking such action.

Typical Layout of Committee Room 1



* Seats are taken on a first come first served basis and availability cannot be guaranteed however sufficient chairs will be provided where possible.

** If you are going to address the committee, the chairperson will call your name at the appropriate time and invite you to sit at the speakers' table. You may sit or stand when addressing the committee.

This leaflet is provided by the Planning Service to help members of the public understand the workings of Planning Committee. It is not an authoritative statement of the law. Any further questions should be put to staff in attendance at the meeting before the meeting begins.