



<b>Title:</b>	<b>Constitution of the Council (Part 3H: Planning Committee)</b>
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## FUNCTIONS, PROCEDURES AND DELEGATIONS OF THE PLANNING COMMITTEE

**1 FUNCTIONS OF THE PLANNING COMMITTEE**

## ONLY FULL COUNCIL CAN AMEND THE FUNCTIONS OF THE PLANNING COMMITTEE

- 1.1 The following powers and functions are the responsibility of the Planning Committee (in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended):

	<b>Function</b>
1.1.1	Power to determine application for planning permission.
1.1.2	Power to determine applications to develop land without compliance with conditions previously attached.
1.1.3	Power to grant planning permission for development already carried out.
1.1.4	Power to decline to determine application for planning permission.
1.1.5	Duties relating to the making of determinations of planning applications.
1.1.6	Power to determine application for planning permission made by a local authority, alone or jointly with another person.
1.1.7	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
1.1.8	Power to enter into agreement regulating development or use of land.
1.1.9	Power to issue a certificate of existing or proposed lawful use or development.
1.1.10	Power to serve a completion notice.
1.1.11	Power to grant consent for the display of advertisements.

1.1.12	Power to authorise entry onto land.
1.1.13	Power to require the discontinuance of a use of land.
1.1.14	Power to serve a planning contravention notice, breach of condition notice or stop notice.
1.1.15	Power to issue a temporary stop notice.
1.1.16	Power to issue an enforcement notice.
1.1.17	Power to apply for an injunction restraining a breach of planning control.
1.1.18	Power to determine applications for hazardous substances consent, and related powers.
1.1.19	Power to require proper maintenance of land.
1.1.20	Power to determine application for listed building consent, and related powers.
1.1.21	Duties relating to applications for listed building consent.
1.1.22	Power to serve a building preservation notice, and related powers.
1.1.23	Power to issue enforcement notice in relation to demolition of listed building in conservation area.
1.1.24	Powers to acquire a listed building in need of repair and to serve a repairs notice.
1.1.25	Power to apply for an injunction in relation to a listed building.
1.1.26	Power to execute urgent works.
1.1.27	Power to create footpath, bridleway or restricted byway by agreement.
1.1.28	Power to create footpaths, bridleways and restricted byways.
1.1.29	Power to stop up footpaths, bridleways and restricted byways.

1.1.30	Power to determine application for public path extinguishment order.
1.1.31	Power to make a rail crossing extinguishment order.
1.1.32	Power to make a special extinguishment order.
1.1.33	Power to divert footpaths, bridleways and restricted byways.
1.1.34	Power to make a public path diversion order.
1.1.35	Power to make a rail crossing diversion order.
1.1.36	Power to make a special diversion order.
1.1.37	Power to require applicant for order to enter into agreement.
1.1.38	Power to make an SSSI diversion order.
1.1.39	Duty to keep register with respect to applications under Sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.
1.1.40	Power to decline to determine certain applications.
1.1.41	Duty to assert and protect the rights of the public to use and enjoyment of highways.
1.1.42	Duty to serve notice of proposed action in relation to obstruction.
1.1.43	Power to apply for variation of order under S. 130B of the Highways Act 1980.
1.1.44	Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.
1.1.45	Power temporarily to divert footpath, bridleway or restricted byway.
1.1.46	Functions relating to the making good of damage and the removal of obstructions.
1.1.47	Powers relating to the removal of things so deposited on highways as to be a nuisance.

1.1.48	Power to extinguish certain public rights of way.
1.1.49	Power to extinguish public right of way over land acquired for clearance.
1.1.50	Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.
1.1.51	Power to extinguish public rights of way over land held for planning purposes.
1.1.52	Powers relating to the protection of important hedgerows.
1.1.53	Powers relating to the preservation of trees.
1.1.54	Powers relating to complaints about high hedges.
1.1.55	Power to apply for an enforcement order against unlawful works on common land.
1.1.56	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.
1.1.57	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.
1.1.58	Determining whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is the responsibility of the Planning Committee and, if so, the amount of such charge.
1.1.59	Any other function relating to town and country planning that is the responsibility of the Borough Council (District Council) as Local Planning Authority arising under any Act of Parliament now or in the future and any statutory instrument or order made thereunder and which is not reserved by the law or the Constitution to the Full Council, the Cabinet or another Council body.

- 1.2 The Planning Committee may be consulted on other matters relating to Planning policy or procedure.
- 1.3 The Planning Committee may delegate any of these powers or functions fully or partly to any officer of the Council.

## 2 PROCEDURES OF THE PLANNING COMMITTEE

THE PLANNING COMMITTEE CAN AMEND THE PROCEDURES WHICH IT FOLLOWS IN CONSULTATION WITH THE MONITORING OFFICER.

### MEMBERSHIP

2.1 Membership will be a total of 11 to reflect the political make-up of the Council.

### MEETINGS

2.2 All meetings of the Committee shall be held at the Town Hall Burton upon Trent at 2.00pm, unless different arrangements have been agreed by the Committee Chair.

2.3 The Committee will meet so often as may be required to perform the functions of the Committee. Ordinarily the Committee meets monthly.

### CHAIRMAN AND VICE-CHAIRMAN

2.4 Council shall appoint the Chairman and the Committee shall appoint the Vice-Chairman.

### RIGHT TO ATTEND

2.5 Meetings of the Committee shall be open to the press and public except for confidential business.

2.6 All Councillors formally appointed to the Committee by the Council have the right to attend and to vote at meetings of the Committee, except that only Councillors who have attended any site visit may debate and vote on a particular planning application. Members of the Committee who have not attended any site visit may speak on the application but not vote.

2.7 Ward Councillors may attend committee and speak for three minutes, when invited to do so by the Chair. The committee Clerk must receive notification of their wish to speak 24 hours before the committee commences. As the last public speaker the Ward Member can remain at the public speaking table and ask the Chair for consent to speak during the debate setting out clearly those concerns which they wish to contribute in

the debate. The Chairman may seek the views of the Committee before making a decision. If the Chairman gives such consent, the Councillor may take part in the debate when invited to do so by the Chairman (but may not vote).

- 2.8 Other Councillors who are not members of the Committee may attend meetings of the Committee, except where Exempt Information is likely to be disclosed. If Exempt Information is likely to be disclosed, they can only attend such meetings if they can demonstrate that their attendance is necessary to perform their duties as a Councillor. If they do attend, they may ask the Chairman for consent to speak (giving reasons). The Chairman may seek the views of the Committee before making a decision. If the Chairman gives such consent, the Councillor may take part in the debate when invited to do so by the Chairman (but may not vote).

#### QUORUM

- 2.9 A quorum shall be one-third of the total number of Committee members.

#### QUASI-JUDICIAL HEARINGS

- 2.10 Where the Committee is sitting to conduct a hearing of a quasi-judicial nature, the Committee shall follow a procedure for such hearings that complies with the European Convention on Human Rights and the rules of natural justice.

#### PUBLIC SPEAKING

- 2.11 The Chairman shall allow members of the public, agents, applicants and Parish Councillors/Clerks to address the Committee in accordance with the public speaking guidelines.
- 2.12 If the Chairman decides that it is likely to help the proper conduct of the business, they may ask any person present at a Meeting questions in order to ascertain facts associated with the decision to be taken. If they do, that person may answer the question (in which case they must confine their answer solely to the question asked) or decline to answer the question.



## REPORTING ARRANGEMENTS

- 2.13 Where necessary the Committee will make reports and recommendations to the Executive and/or Full Council arising from the outcome of their work.

## APPLICATION OF COUNCIL MEETING PROCEDURE RULES

- 2.14 Save where inconsistent with these Rules, proceedings at the Committee will be governed as set out in Rule 23 of the Council Meeting Procedure Rules – see Part 3A.

## 3 GUIDELINES FOR SITE VISITS

### THE PLANNING COMMITTEE CAN AMEND THE PROCEDURES WHICH IT FOLLOWS IN CONSULTATION WITH THE MONITORING OFFICER

- 3.1 The aim of a site visit is to provide Members of the Planning Committee with the opportunity to assess the merits of a proposal by visiting and inspecting the site and taking into account all relevant planning matters relating to the proposal, in advance of the proposal being discussed in full at the meeting of the Committee.

### HOLDING SITE VISITS

- 3.2 Site visits will be required at least once for each site. Members of the Planning Committee will be given the opportunity to assess the merits of a proposed application by visiting and inspecting the site and taking into account all relevant planning matters relating to the proposal, in advance of the proposal being discussed in full at the meeting of the Committee.

### ROLE OF COUNCILLORS

- 3.3 The Chairman shall ensure that members of the Planning Committee inspect the site as a group. They must ensure that they see or inspect all relevant matters so they can fully assess the planning merits of the proposal.

- 3.4 The Officers may arrange for demonstration of use or clarification of dimensions, or materials used in buildings and operational details for the information of the Committee.
- 3.5 Councillors may ask questions, through the Chairman, of the applicant on the site.
- 3.6 Councillors should not enter into discussions of the merits of the proposal with the applicant or other Councillors during the site visit.
- 3.7 Councillors shall be seen to be perfectly scrupulous and fair to both the applicant and third parties at all site visits.
- 3.8 Councillors should not leave the site visit until the Chairman has indicated the site visit has ended.
- 3.9 Ward Councillors may address members of the Committee but their address must focus on site factors and site issues.

#### ROLE OF THE CHAIRMAN

- 3.10 The Councillor chairing the site visit must ensure that all aspects of the site visit are run in a fair and orderly manner.
- 3.11 They must ensure all questions and comments are made through the Chairman.
- 3.12 They should be guided by advice from officers present but must ensure the site has been adequately inspected, which may include inspection from third party locations or elsewhere.
- 3.13 They must formally open and close the site visit and ensure Councillors are fully aware of matters arising at the visit.

#### PERSONS INVITED TO ATTEND A SITE VISIT

- 3.14 The Council will normally only invite the following persons to attend a site visit:
  - 3.14.1 Members of the Planning Committee;
  - 3.14.2 The applicant and/or their agent;
  - 3.14.3 Ward Councillors;

- 3.14.4 Officers of the Council and officers of statutory consultees where they are likely to have a valid technical input into the site visit.

## PROCEDURES

- 3.15 The site visit will commence at an accessible location.
- 3.16 Officers will describe the proposal and may refer to matters raised in the report by consultees and third parties.
- 3.17 Councillors may ask questions, through the Chairman, of the officers about the proposals.
- 3.18 Councillors may ask questions, through the Chairman, of the applicant for clarification only.
- 3.19 The applicant and/or agent may not address the Councillors present about the merits of the case. If any such attempt is made, the Chairman, will warn the applicant and/or agent that Councillors cannot consider their comments.
- 3.20 The Committee should then, as a group led by the Chairman, inspect the site and any adjacent land. During this time Councillors may ask questions, through the Chairman, of the officers or the applicant for clarification only.
- 3.21 Once the site and any adjacent land has been inspected the Chairman should formally close the site visit.
- 3.22 Once closed no further discussions should take place.
- 3.23 Committee Members should not engage with anyone not on the Council Site Visit.

## HOSPITALITY

- 3.24 Councillors and officers may not accept any form of hospitality from the applicant and/or agent.

## ACCESS

- 3.25 To assess the validity of a case, the Councillors, and the applicant and/or agent must be allowed adequate access to relevant locations.

## 4 GUIDELINES FOR PUBLIC SPEAKING

### THE PLANNING COMMITTEE CAN AMEND THE PROCEDURES WHICH IT FOLLOWS

#### PROCEDURES

- 4.1 The scheme for public speaking at Planning Committee only concerns matters relating to applications made under the Town and Country Planning Act 1990 and the Planning (Listed Building and Conservation Areas) Act 1990 (or any updated, amended or replacement legislation) and associated matters on the relevant Planning Committee agenda. It does not apply for legal and enforcement issues.
- 4.2 Any person who wishes to make oral representations to the Committee must notify the Democratic Services Team before 5pm on the Wednesday prior to the Committee Meeting. They should indicate if they wish to speak in favour of, or against the planning application.
- 4.3 Public speaking opportunities shall be allocated on a first come, first served basis. Where a number of people wish to speak they will be notified of the 'list' of potential participants on the Thursday prior to the committee meeting and given the opportunity to agree amongst themselves who will act as a spokesperson. If they cannot agree a spokesperson, the Chairman will ask people to speak in the order in which they notified the Democratic Services Team, up to the maximum number of speakers.
- 4.4 The maximum time allowed will be three minutes per speaker and each person can only speak once.
- 4.5 The Chairman will invite people to speak in the following order:
  - 4.5.1 A member or clerk of the parish/town council(s) for the area in which the application is located;
  - 4.5.2 A member of the public supporting the application;
  - 4.5.3 Two members of the public opposing the application;
  - 4.5.4 The applicant or their agent.
  - 4.5.5 Ward Councillor

- 4.6 A leaflet will be prepared giving details of the process for the public's information. This will be available at Council offices, and sent to anyone who has made, or commented on a planning application that is going to be presented at committee, with an invitation to attend and speak if they wish.
- 4.7 The leaflet will stress that the comments made should be relevant to planning issues such as residential amenity; loss of light or overshadowing; highway safety and traffic; noise; disturbance; smell; design; appearance; layout; character of the area; historic buildings; trees; and national or local planning policies.
- 4.8 It will state that they should not refer to non-planning issues such as private property rights (boundary or access disputes); the developer's morals or motives; loss of property value or loss of view; and matters covered by other laws (e.g. alcohol licence, building control).
- 4.9 It will also stress that at the meeting the speakers should not:
- 4.9.1 make statements of a personal or slanderous nature which could result in legal action against them;
  - 4.9.2 be abusive;
  - 4.9.3 interrupt other speakers; or
  - 4.9.4 interrupt the committee debate.

## 5 DELEGATION TO OFFICERS

### THE PLANNING COMMITTEE CAN AMEND THE DELEGATION OF ITS FUNCTIONS TO OFFICERS

- 5.1 The powers and functions of the Planning Committee, as listed in the Council's Constitution and defined under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, may be discharged by the relevant Chief Officer ~~Head of Service~~ or the Planning Manager or other officers authorised by them.

Provided that:

- 5.2 In the following circumstances the ~~Chief Officer Head of Service~~ or the Planning Manager, or, in their absence, any officer authorised by either of them, shall refer applications to the Planning Committee where:
- 5.2.1 a request is made by a Ward Councillor;
  - 5.2.2 the application is contrary to agreed local plan policy and its approval would represent a significant departure;
  - 5.2.3 the application is of significant public interest, and/or is believed to be controversial;
  - 5.2.4 any other circumstances in which the ~~Chief Officer Head of Service~~ or the Planning Manager considers it appropriate.
- 5.3 With regard to 5.2.1 any request shall be made in writing to the ~~Chief Officer Head of Service~~ or the Planning Manager and within 21 days of the publication of the weekly list of applications.
- 5.4 With regard to 5.2.3 above, any interpretation of “significant public interest” or “controversial” shall be made by the Chairman of the Committee, or, if they are unable to act, the Vice-Chairman.
- 5.5 In arriving at a view as to whether or not to refer an application to the Planning Committee in accordance with 5.2.4 above, the ~~Chief Officer Head of Service~~ or the Planning Manager will consult with the Chairman of the Committee (or, if they are unable to act, the Vice-Chairman) and will have regard to the following criteria (amongst other things):
- 5.5.1 whether there is an issue of consistency of officer recommendation having regard to similar recent applications;
  - 5.5.2 whether the nature of previous decisions relating to the application site may warrant referral to the Committee;
  - 5.5.3 where the officer’s decision may conflict with the Council’s Corporate policies.
- 5.6 Applications for permission for mobile phone masts are delegated to the ~~Chief Officer Head of Service~~ or the Planning Manager or other officers authorised by them and the power of Councillors to request that an application be referred to Committee shall not apply.

