

Subject: Review of Protocols for Planning Committee (including delegations).

Report by:

Chief Operating Officer

Contact Officer:

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Purpose / Summary:

To agree revisions to the current protocols and Scheme of Delegation relating to the operation of the Planning Committee.

RECOMMENDATIONS: That the Committee recommends to Council that the updates and revisions to the protocols for operation of the Planning Committee (including revisions to the delegation arrangements set out in the Constitution) set out in this report are agreed, including:

- 1) The two additions to the Local 'Code of Conduct' Protocol, set out in paragraph 3.3 of this report, to add clarity to the role of members in certain planning appeals and to reflect member involvement in pre-application advice.
- 2) The five recommended additions to the 'Public participation at Planning Committee Meetings' protocol, as set out in paragraph 4.5 of this report. These propose setting a maximum time limit for all speakers at planning committee of five minutes, a requirement for all speakers to follow the same process for registering in advance to speak, and to make clear in what capacity a visiting member is speaking (parish councillor (or on behalf of the parish council), ward member, or county councillor).
- 3) The proposed addition to the Council's Constitution to take account of any conflicts with draft and made (adopted) neighbourhood plans in determining planning applications, as set out at paragraph 3.7 of this report.

Legal: Ensure that the correct Governance is in place to support robust decision making in respect of planning applications.

Financial: None as a result of this report.

Staffing: None as a result of this report.

Equality and Diversity including Human Rights: None as a result of this report.

Risk Assessment : n/a

Climate Related Risks and Opportunities : n/a

Title and Location of any Background Papers used in the preparation of this report:

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

☐

No

x

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

☐

No

x

1.0 Introduction

- 1.1 The Council's planning service operates according to a scheme of delegation set out within the Constitution, together with a number of protocols which mainly govern how the Planning Committee operates. The protocols, whilst not formally part of the constitution, assist with the smooth operation of the Planning Committee

and in ensure that there are clear and transparent governance arrangements in place to assist with robust decision making.

- 1.2 During a meeting of the Governance and Audit Committee in January 2017 it was requested and agreed that the Committee would have the opportunity to review delegation arrangements for determining planning applications, together with the protocols that are in place for the operation of the Council's Planning Committee.
- 1.3 The role of the Planning Committee is to focus on those applications that are strategic and help to deliver the Council's wider objectives as set out in the Corporate Plan (of major importance to the District as a whole), plus any that might conflict with adopted policies, any that are finely balanced, or where there might be a conflict of interest (the applicant is (or is related to) an officer or elected member).
- 1.4 Such a review of the Committee's protocols is essential in order to ensure that they remain fit for purpose and to ensure that any changes to the normal working practices since the last formal in-depth review of the protocols in 2011 are taken into account.
- 1.5 A workshop with members of both the Governance and Audit Committee and Planning Committee took place on 8 February 2017 and whilst a small number of refinements have been proposed, as detailed within this report, there was a strong consensus that the majority of the current protocols have worked well and ensured the ongoing strategic focus of the Planning Committee.

2.0 Protocols

- 2.1 Following the request by Governance and Audit Committee in January 2017 to review protocols and delegations of the Planning Committee, the Planning Services Manager and Chief Operating Officer held a workshop with members of both these committees on 8 February 2017.
- 2.2 The purpose of the workshop was to explore the current arrangements and to discuss where potential amendments were needed, to either;
 - a) capture any working practices that are not currently set out within either the Council's Constitution or within existing Protocols, and;
 - b) identify any parts of the Constitution or Protocols that need to be reviewed to bring them up to date since the last comprehensive review was undertaken in 2011.
- 2.3 A copy of the presentation made to members on 8 February 2017 is attached at Appendix 1.
- 2.4 The majority of the information currently set out within the protocols was agreed to be effective and helpful in ensuring the smooth operation of the planning service and in the operation of the Planning Committee. A number of additions and amendments have been identified and these are set out in sections 3 and 4 below.

3.0 Protocol – Code of Conduct for Officers and Members dealing with Planning

- 3.1 The Council sets out clear direction for officers and members within the 'Local Code of Conduct for Councillors and Officers dealing with Planning Matters'. This document, as the title suggests, includes a range of routine scenarios that can be experienced in the process of assessing and making decisions on planning applications. This protocol is published on the council's website.
- 3.2 There are two changes to this protocol that have been identified during the workshop with members; one new addition to the Protocol and one addition to existing text. These are detailed in the table below;
- 3.3 **Table 1 – Summary of proposed changes to the 'Local Code of Conduct for Councillors and Officers dealing with Planning Matters' protocol.**

Amendment No.	Type of change	Paragraph	Reason
1	Addition	New Paragraph 10.4 – Include additional text to reflect the agreed requirement for members to take an active role in leading planning appeals where committee have made a decision to refuse planning permission contrary to officer recommendation.	To reflect current working practices that are not currently captured in the protocol but that members showed strong support for continuing with.
2	Addition	Additional text to paragraph 7.5 to read "This equally applies to the local ward member where that member is also a member of the Planning Committee and may be involved in making a decision if a planning application follows. In such circumstances care should be taken to ensure there is no grounds for appearing to have pre-determined any application by providing advice to applicants or potential objectors at the pre-application stage."	Now that pre-application advice is embedded as a key part of the service, this amendment will ensure that impartiality of committee members at all stages is clearly set out. This will support transparent and robust decision making.

- 3.4 The full protocol, including these revisions, is shown at Appendix 2 (see pages 5 and 7 for the above amendments).
- 4.0 Protocol for 'Public Participation at Planning Committee Meetings'**
- 4.1 This protocol is designed to ensure that public involvement in the planning process is encouraged and that an equitable system is in place to provide a fair process for all views to be expressed in the determination of planning applications.

- 4.2 There are already a number of statutory stages of consultation in place ranging from the public consultation period to member notification, and this protocol sits alongside those to frame the process for additional ways to engage.
- 4.3 Advice in respect of how to speak at Planning Committee meetings is set out within this protocol and was reviewed at the workshop with members on 8 February 2017, following the request in January 2017 by the Governance and Audit Committee to examine protocols relating to the planning service.
- 4.4 It is proposed that additional criteria are added into this protocol to clearly set out controls relating to public and member participation at committees, and to ensure that a fair system is in place for all speakers and interested parties attending a planning committee. These are set out in the table of amendments below;
- 4.5 **Table 2 – A summary of the recommended additions to the guidance ‘Public Participation at Planning Committee Meetings’.**

Amendment No.	Type of Change	Recommended change	Reason
1	Amend	Amend the paragraph ‘How long will I be able to speak for?’ to limit <u>all</u> speakers to 5 minutes. This will include: <ul style="list-style-type: none"> • Visiting Ward Members • County Councillors (N.b this will bring the above speakers in line with the existing arrangements for the time allowed for Parish Councils.)	To add clarity - this is not currently set out and can cause confusion. To create a more equitable process for speakers; to ensure committees remain focused and efficient, to maximise the value of members’ time at committee.
2	Amend	Amend the paragraph ‘If I wish to speak, how do I arrange it?’ to state that all speakers, including members of the public, visiting Ward Members and County Councillors are required to comply with the requirement to register in advance of the meeting (by 5pm 2 working days before the meeting).	Ensure that the Chair and Officers understand who will be speaking at committee, that speaking time is equitable for all and the committee operates in an efficient way.
3	Addition	A new paragraph to clearly state that all speakers are required to confirm who they are speaking as (i.e. Parish Councillor, District Councillor or County Councillor) when they register to speak.	As above, and to support robust governance in decision making.
4	Addition	Add text ‘Can MP’s or MEP’s speak at Planning Committees?’ and the	This is not currently set out in the guidance.

		response: 'This will be considered at the discretion of the Chair of the Committee'.	
5	Addition	A new paragraph stressing the importance of focussing comments on material planning matters that have not otherwise been raised by other speakers.	To reduce instances of multiple speakers using the allotted time to repeat the same issues that others have said, and ensure all matters are fairly covered. To make most efficient use of member's time.

4.6 There is no change proposed to the existing arrangements for the speaking time allowed for members of the public, which is set at five minutes for objectors and a further five minutes for supporters – note, for clarity this means five minutes in total, not per speaker.

4.7 It is important to stress that whilst the above additions to the protocol are recommended, the Chair of the Committee ultimately has the final say and can exercise their discretion at any time to allow extended time limits as is deemed fit. Exceptional circumstances where this may occur include significant major applications generating a high level of public interest or where the debate at committee would benefit from hearing additional relevant information from interested parties.

4.8 During the member workshop Officers agreed to seek further legal advice in respect of the process for speaking at two committees on the same application, which can arise when a decision is deferred for a site visit. Officers will seek clarity on whether, once a speaker has participated in a committee, that speaker can speak again at a subsequent meeting on the same application if there have been no material changes to the planning application since the original debate was held. Officers will report back to the Chair of Governance and Audit Committee in due course.

4.9 A copy of the existing Public Participation at Planning Committee Meetings protocol is included in full at appendix 3.

5.0 Recommended Constitutional Amendment

5.1 The Council's Constitution sets out how decisions are made in relation to planning applications submitted to the Council, and the circumstances under which applications are determined by either the planning committee, or by officers under delegated powers.

5.2 At the workshop held with members on 8 February 2017 the role the planning committee was discussed, with members expressing a clear support for the Planning Committee to retain a strong strategic focus and for this to be the core function of its committee members.

- 5.3 Officers presented data to show that for the 12 months up to September 2016, 94% of all planning applications were determined under delegated powers by officers, with 6% being determined by the Planning Committee.
- 5.4 This figure exactly matches the national average, and is also in line with the average delegation rates amongst the nearest local planning authorities that were included for context (see 'National Context' on page 5 of appendix 1).
- 5.5 Feedback from members during the workshop also reflected clear support for the existing delegation arrangements to continue and therefore no amendments are recommended in relation to these.
- 5.6 One change is recommended to the Constitution, and this will be put forward to full Council for agreement with any other constitutional amendments arising from different parts of the Council.
- 5.7 The recommendation is to add further text to require applications to be determined by Planning Committee where a recommendation to approve is in conflict with both the local plan **and/or any draft or made Neighbourhood Plan**. Part IV, p.34, paragraph 1, sub-section j, would be amended to read as follows (additional text is in bold);
- (i) Any application where the recommendation is for approval which is in conflict with a policy of the Central Lincolnshire Local Plan (NB this will only come into force once the Central Lincolnshire Local Plan is adopted as part of the development plan for West Lindsey) **or any Neighbourhood Plan that has passed Regulation 14 stage, being those plans at either an official draft stage or 'made' (adopted) Neighbourhood Plan.***
- 5.8 A full text of the relevant part of the constitution, reflecting the above addition is included at appendix 4.

6.0 Recommendations

- 6.1 That members approve the two additions to the Local 'Code of Conduct' Protocol, set out in paragraph 3.3 of this report, to add clarity to the role of members in certain planning appeals and to reflect member involvement in pre-application advice.
- 6.2 That members approve the five recommended additions to the 'Public participation at Planning Committee Meetings' protocol, as set out in paragraph 4.5 of this report. These propose setting a maximum time limit for all speakers at planning committee of five minutes, a requirement for all speakers to follow the same process for registering in advance to speak, and to make clear in what capacity a visiting member is speaking.
- 6.2 That members note and support the proposed addition to the Council's Constitution to take account of any conflicts with draft and made (adopted) neighbourhood plans in determining planning applications, as set out at paragraph 3.7 of this report.

A Local Code of Conduct for Councillors and Officers dealing with Planning Matters

February 2017 Review

If you would like a copy of this leaflet in large, clear print, audio, Braille or in another language, please telephone **01427 676594/5**



1. Status of Code

- 1.1 This local Code of Conduct for Councillors and Officers dealing with planning matters has been adopted by the Council and is, therefore, binding on Members and Officers. Any investigation by the Ombudsman, or any internal investigation of a complaint will take compliance with this code into account.

2. Introduction

The aim of this code of good practice: 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.

One of the key purposes of Planning is: to control development in the public interest.

Your role as a Councillor involved in Planning decisions is: to make planning decisions openly, impartially, with sound judgement and for justifiable reasons, taking into account all material planning considerations.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process (this includes when taking part in the 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 as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer of the Deputy Monitoring Officer.

3. The General Role and Conduct of Councillors and Officers

- 3.1 Councillors and Officers have different, but complementary, roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole. Officers advise Councillors and the whole Council, and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a Council or committee decision. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust and an understanding of each others' positions. This relationship, and the trust which underpins it, must never be abused or compromised.
- 3.2 Both Councillors and Officers are guided by codes of conduct. The Members' Code of Conduct provides guidance and standards for Councillors and this must always be complied with.

Failure to declare a prejudicial interest might result in a breach of the code. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (R.T.P.I.) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. They are also bound by the local Code of Conduct for employees.

- 3.3 Whilst Councillors have a special duty to their Ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take.
- 3.4 This is particularly pertinent to Councillors serving on a planning committee or who become involved in making a planning decision (where full Council becomes involved in making the decisions). The basis of the planning system is the consideration of private proposals against wider public interests and the interest of West Lindsey as a whole. Much is often at stake in this process and opposing views are often strongly held by those involved.

Whilst Councillors should take account of those views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way will consider whether they are best suited to serving on a planning committee.

- 3.5 Officers must always act impartially. In order to ensure that senior Officers do so, the Local Government and Housing Act 1989, enables restrictions to be set on their outside activities, such as membership of political parties and serving on another Council. During the course of carrying out their duties, Officers may be offered hospitality from people with an interest in a planning proposal. If possible, such offers will be declined politely. If receipt of hospitality is unavoidable, Officers will ensure it is of the minimum level and declare its receipt as soon as possible, in the book kept for this purpose.

4. Declaration and Registration of Interests

- 4.1 The Code sets out requirements and guidance for Councillors, on declaring personal and prejudicial interests and the consequences of having such interests. The responsibility for this rests individually with each Councillor.
- 4.2 A register of members' interests is maintained by the Council's proper officer and any changes must automatically be notified by Councillors. Councillors who have substantial property interests, or other interests which would prevent them from voting on a regular basis, will avoid serving on the planning committee.
- 4.3 Where your interest is personal and prejudicial:-
- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.

- **Don't** try to represent ward views, get another Ward Member to do so instead.
- **Don't** get involved in the processing of the application.
- **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.
- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee but only to make a presentation in the same manner that would apply to a normal member of public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery).

5. Development Proposals Submitted by Councillors and Officers, and Council Development

- 5.1 Serving Councillors who act as agents for people pursuing a planning matter within their authority will play no part in the decision-making process for that proposal. Similarly, should they submit their own proposal to the authority they serve, they will take no part in its processing nor should they seek to influence the assessment or recommendation.
- 5.2 Applications made by Councillors or Officers (or their immediate family), either as an agent or an applicant in their own right, will be referred to the Planning Committee for determination and not dealt with using delegated powers.
- 5.3 The Council's monitoring officer will be informed of such proposals.
- 5.4 Proposals for a Council's own development will be treated in the same way as those by private developers, in accordance with Circular 19/92, particularly in relation to Officers' advice.

6. Lobbying of and By Councillors

Lobbying is a normal and perfectly proper part of the political process and those affected by a planning decision will often seek to influence it through an approach to their elected ward member or to a *member of Committee*. Lobbying can however cause considerable public mistrust of Councils and, unless care and common-sense is used, lead to the impartiality and integrity of a Councillor being called into question. The following advice is given:

- 6.1 When being lobbied, Councillors and Members of the Planning Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they will restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the Officer's report to the committee. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at committee.
- 6.2 A planning committee member who represents a Ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome – or even campaign actively for it – it will be very difficult for that Member to argue convincingly when the committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented – perhaps in some respects for the first time – at committee. The proper course of action for such a Member is to make an open declaration and not to vote. This is, however, a severe restriction on the Member's wish, duty even, to represent the views of the electorate, and in most cases short of such high-profile, active lobbying for a particular outcome, it should be possible for a Member to give support to a particular body of opinion whilst waiting until the planning committee and hearing all the evidence presented before making a final decision.
- 6.3 It cannot be stressed too strongly that the striking of this balance is, ultimately, the responsibility of the individual Member, and that in doing so regard needs to be paid to the general rules laid down in the Members Code.
- 6.4 Given that the point at which a decision on a planning application is made cannot occur before the planning committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the committee meeting will not be used to decide how councillors should vote.
- 6.5 With the exception in some circumstances of Ward Councillors, whose position has already been covered in the preceding paragraphs, Councillors will in general avoid organising support for or opposition to a planning application, and avoid lobbying other Councillors. Such actions can easily be misunderstood by parties to the application and by the general public.
- 6.6 Councillors will not put pressure on Officers for a particular recommendation.
- 6.7 Councillors who are unsure whether an interest should be declared will seek the advice of the Council's Monitoring Officer, although, as indicated above, the decision rests with the Councillor.
- 6.8 Elected Members should not lobby members of the Planning Committee.
- 6.9 Because of the interests involved the acceptance of gifts and hospitality from developers or objectors is likely to lead to allegations of impropriety. If a degree

of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and registered in the Register of Interests where its value is over £25 (in accordance with the Members' Code of conduct).

7. Pre-Application Discussions

- 7.1 Discussions between a potential applicant and a council prior to the submission of an application can be of considerable benefit to both parties and is encouraged by the Audit Commission and LGA. It would be easy however for such discussions to become, or be seen (especially by objectors) to become, part of a lobbying process and additional safeguards therefore need to be introduced.
- 7.2 It should always be made clear at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are personal and provisional and given without prejudice. By the very nature of such meetings not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.
- 7.3 Advice will be consistent and based upon the development plan and material considerations. There will be no significant difference of interpretation of planning policies between planning officers. In addition, all officers taking part in such discussions will make clear whether or not they are the decision-maker.
- 7.4 An appropriate written note will be made of all meetings and telephone calls. At least one officer will attend such meetings and a follow-up letter will be sent confirming discussions. A note will also be taken of similarly significant telephone discussions. Where appropriate and subject to respecting confidentiality, all such letters and notes shall be included with appendices to reports.
- 7.5 Care must be taken to avoid any appearance of partiality. **This equally applies to the local ward member where that member is also a member of the Planning Committee and may be involved in making a decision if a planning application follows. Whilst member involvement at the pre-application stage is often very valuable, in such circumstances care should be taken to ensure there is no grounds for appearing to have pre-determined any application by providing advice to applicants or potential objectors at the pre-application stage.**
- 7.6 In respect of presentations by applicants / developers:
- **Don't** take an active role in a planning presentation.
 - **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
 - **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.
 - **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

- 7.7 A written record will be maintained of presentations held and those attending.

8. Officer Reports to Committee

- 8.1 Reports will be concise, accurate and balanced and cover, among other things, the substance of objections and the views of people who have been consulted.
- 8.2 Relevant points will include a clear exposition of the development plan, site or related history including any Section 106 Agreement requirements and any other material considerations.
- 8.3 Reports will have a written recommendation of action; oral reporting (except to update a report) will be extremely rare and carefully minuted if it does occur.
- 8.4 Reports will contain a technical appraisal which clearly justifies the recommendation.
- 8.5 If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this will be clearly stated.
- 8.6 Other Committees than Planning shall be consulted on applications that have a direct correlation with the affairs of those Committees. Responses from those Committees consulted must be clear and concise, based on planning considerations, and will be considered as appendices to Planning Committee reports.

9. Public Speaking at Planning Committee

- 9.1 The Council has a formal system for Parish/Town Council's representatives, objectors and supporters to speak on an application at the Planning Committee.

10. Decisions contrary to Officer Recommendation and / or the Development Plan

- 10.1 The law requires that where the development plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise (Section 38 (6) of the Planning and Compulsory Purchase Act 2004).
- 10.2 This gives rise to two main issues. Firstly, all applications which are not in accordance with the development plan should be identified as soon as possible and if minded to allow they must then be advertised as such, in accordance with the requirements of Article 8 of the Town and Country Planning (General Development Procedure) Order 1995. Secondly, if it is intended to approve such an application the material considerations which lead to this conclusion will be clearly identified, and how they justify overriding the development plan clearly demonstrated. The application may then have to be referred to the Secretary of State for the Communities and Local Government, depending upon the type and scale of development proposed. If the Officers' report recommends approval of a departure, the justification for this will be included, in full, in that report.

10.3 If the planning committee makes a decision contrary to the Officers' recommendations (whether for approval or refusal), a detailed minute of the committee's reasons will be made and a copy placed on the application file. The Officer will also be given the opportunity to explain the implications of the contrary decision. The Courts have expressed the view that such reasons should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, a dwelling for an agriculture worker. In the case of conditions which Councillors wish to add or amend, an Officer will be invited to draft such a condition and bring this back for approval at the subsequent meeting or be given delegated authority to approve following consultation with the Committee Chairman or Vice Chairman.

10.4 If the Planning Committee refuses planning permission contrary to an Officer's recommendation to approve permission;

- **There must be clear policy reasons given – this should include both the policies in conflict with the proposal and also *how* those policies are conflicted.**
- **If the refusal results in an appeal, an appointed Member will take the lead in preparing Appeal Statements within the Planning Inspector's deadlines. This will usually be a member of the Planning Committee or local ward member and will be agreed with the Chair of the Committee**
- **Officers will provide support to members to ensure all procedural matters are comprehensively covered in the Appeal Statement**
- **If the Appeal results in a Hearing or Inquiry a lead member, agreed with the Chair of the Planning Committee, will attend the Appeal alongside Officers to defend the Council's position.**

11. Committee Site Visits

- 11.1 The Members' Code applies as much to site visits as to any other area of conduct.
- 11.2 Site visits can cause delay and additional costs and should only be used where the expected benefits are clearly identified.
- 11.3 Site visits will be carefully organised to ensure that the purpose, format and conduct are clearly established at the beginning and subsequently adhered to. The reasons for a site meeting being necessary will be recorded.
- 11.4 A site visit is only likely to be necessary if: the impact of the proposed development is difficult to visualise from the plans and any supporting material including photographs taken by Officers or, there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing; or, the proposal is particularly contentious.
- 11.5 The site visit will consist of an inspection by the committee, with officer assistance.

- 11.6 If accompanied the Applicant and Objector will have no right to speak but will merely observe and answer questions when asked.
- 11.7 A site visit will not be given delegated powers to decide the application; which will be reported back to the planning committee with a reasoned recommendation.
- 11.8 A written record will be made detailing the site visit and those present.

12. Regular Review of Decisions

- 12.1 The Audit Commission recommends that Councillors should visit a sample of implemented planning permissions to assess the quality of the decisions. This is reinforced by the Warwick inquiry. Such a visit should improve the quality and consistency of decision-making, thereby strengthening public confidence, and can help with reviews of planning policy.
- 12.2 Such a visit will be undertaken at least annually, will include examples from a broad range of categories, such as, major and minor development, permitted departures, upheld appeals, listed building works and enforcement cases. Briefing notes will be prepared on each case. The Planning Committee will formally consider a report on the visit and decide whether it gives rise to the need to review any policies or practices.

13. Record Keeping

- 13.1 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule is that every planning application file will contain an accurate account of events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached. Particular care will be taken with applications determined under Officers' delegated powers, where there is no committee report. Such decisions will be as well documented and recorded as those taken by Members. These principles apply equally to enforcement and development plan matters. Monitoring will be undertaken regularly.

14. Political Group Meetings

- 14.1 Elected Members have an overriding duty to the whole local community and although they may be strongly influenced by the views of others and particularly their political group, it is their responsibility alone to decide what view to take on any matter before the Committee.

- 14.2 Although it is accepted that political groups may have a policy on particular types of development or on major schemes, group meetings prior to the Committee should not be used to decide how members vote.
- 14.3 Members must consider all applications in the light of the Development Plan and decide on the application's merits, taking into account only material planning considerations. The appearance of bias or predetermination can lead to a decision being quashed and costs awarded against the Council.

15. Disclosure of Information

- 15.1 Members will sometimes be given information or assurances by applicants which are not part of the formal application or be given information by objectors which is misleading, untrue or irrelevant. This may cause problems if Officers are unaware of any such submissions and are unable to advise the Planning Committee of their relevance or enforceability.
- 15.2 Any Member receiving a letter for or on behalf of an applicant or third party in connection with an application before the Planning Committee should establish whether the letter has first been submitted to the Council via the Planning Officer and, if not, declare the receipt of the letter prior to the decision being taken.
- 15.3 No Member should circulate any documents or information to the Planning Committee unless that information has been first submitted to the Planning Officer and forms part of the application or background papers.

16. Training

- 16.1 You should not participate in decision making at meetings dealing with Planning matters if you have not attended the compulsory training on Planning matters.
- 16.2 The Code of Conduct and any amendments will form part of this training. Copies will be provided for all new Members.

17. Complaints

- 17.1 The Council operates a formal complaints procedure, details of which are available from the Customer Services Manager, West Lindsey District Council, Guildhall, Marshall's Yard, Gainsborough, Lincolnshire, DN21 2NA.
- 17.2 Any Member or Officer who believes that any person subject to this Code is in breach of it should report the matter to the Monitoring Officer for consideration.

18. Review

A logical consequence of adopting a local Code of Conduct is to ensure that it

fulfils its purpose. Consequently the Code will be reviewed at the end of its first year and as necessary in the future so that any amendments can be made to better secure its effectiveness.

Chief Executive
West Lindsey District Council
Guildhall
Marshall's Yard
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Lincolnshire DN21 2NA
Telephone: 01427 676676
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Public Participation at Planning Committee Meetings



Revised January 2016

West Lindsey District Council is committed to extending public involvement in the planning process.

There are already extensive consultation and neighbour notification procedures for all planning applications. This leaflet explains how you can speak directly to Councillors at Planning Committee meetings.

The advice in this leaflet applies equally to applicants, their agents, supporters, objectors and local council representatives.

Questions and Answers

Q Can I get a copy of the agenda before the meeting?

A The agenda, containing details of each application, will be available on the Council's website, at the meeting and will be available for inspection at the council's offices five clear days before the meeting.

Q Does “public participation” alter the existing arrangements for the publicity of planning applications?

A No. Planning applications will continue to be publicised as at present.

The council's Planning Committee generally consider applications which are of wider significance or of major importance to the district as a whole, while decisions on simple or straightforward applications are usually delegated to officers. You may need to check with Planning & Development Services on 01427 676676 (following Options for the Planning Team), or email: planning.customer.care@west-lindsey.gov.uk if you are

not sure if the application in which you are interested is to be considered at a Planning Committee meeting.

Applicants, agents and town or parish councils will be informed about five days before the meeting if an application in which they are interested is on the agenda for that meeting. All other interested parties (i.e. anyone else that has commented/local residents) need to view dates and agendas for forthcoming committee meetings on the council's website. Unfortunately it is not possible to notify interested parties (other than the parish council) directly. Where a planning application is dealt with by officers under delegated powers, clearly public participation will not apply.

Q If I object to a proposal, do I have to speak at the committee meeting?

A No. Details of all objections, if received in time, are reported to the committee anyway. It is entirely at your own discretion whether you ask to speak at committee. Objections are available to view using the application tracker pages of the council's website (www.west-lindsey.gov.uk).

Q If I am the applicant or agent, do I have to speak at the committee meeting?

A No. If the recommendation to the committee is to approve the proposal, you may decide not to take up committee time. If the recommendation is for refusal, you may wish to present your case. Please note, however, that a recommendation is not always accepted by the committee.

Q If I wish to speak, how do I arrange it?

A If you wish to speak, you will need to telephone or e-mail the Democratic Services team on:

**01427 676594/5 or
committeeadmin@west-lindsey.gov.uk
to register your request.**

You must call by no later than 5pm two working days before the meeting, i.e. on the Monday for a Wednesday meeting or the Friday if the Monday is a Bank Holiday. You can register as soon as you become aware of the application even if you do not know at that stage whether the application will be dealt with by officers or submitted to committee. Late requests to speak will not be accepted.

Q Where and when are the committee meetings held?

A Meetings of the Planning Committee are generally held on Wednesdays at 6.30pm in the Council Chamber, Guildhall, Marshall's Yard, Gainsborough.

Q When will the application be considered?

A Applications on which the public wish to speak may be considered before other applications. If you make arrangements to speak, you should endeavour to be present at the start of the meeting. Applications will not be deferred or delayed in the event of late or non-attendance. Specific times for the discussion of particular applications cannot be given.

Q What is the order of speaking on each application?

A One of the planning officers will introduce the item. Members of the public will be invited to speak in the following order:

- Town/Parish Council/Meeting representative
- Supporters (including the applicant(s) and/or agent(s))
- Objectors

The committee will then consider the application and reach a decision. If at the meeting a deferral or site visit is agreed arising from comments made during public

participation, you may speak again at the meeting when the application is next considered.

Q How long will I be able to speak for?

A There is a time limit of five minutes for all supporters and five minutes for all objectors. Into whichever category you fall, you are encouraged to get together and arrange a single spokesperson. A maximum of three speakers will be allowed in each category, sharing the time equally, if agreement cannot be reached. If more than three still wish to speak, time will be allocated on the basis of the first three who registered with the Committee Administration team.

Q Can I ask questions of other speakers?

A No. Comments should be in the form of statements rather than questions.

Q Can I use photographs or plans or circulate supporting documents?

A Documentation in support of oral representations is permitted provided a copy is submitted to Planning Services by no later than 12 noon on the day preceding the committee meeting.

Q What are the relevant issues in considering proposals?

A The relevant issues will vary with the nature of the proposal and the site, but may include the following:

- Structure and local plan policies
- Government planning guidance
- Planning law and previous decisions
- Highways safety and traffic issues
- Noise, disturbance and smells

- Design, appearance and layout
- Conservation of historic buildings, trees etc
- Residential amenities and Environmental impact

Q What issues are usually not relevant in considering proposals?

A They will also vary from case to case, but the following are examples:

- Matters covered by other laws (*e.g. alcohol licensing*)
- Private property rights (*e.g. boundary or access disputes*)
- The applicant's morals or motives
- Suspected future development
- Loss of view
- Effect on value of property

Allegations of factual errors in the report are not to be the subject of oral representations. If you believe this to be the case, you must take this up in writing with the Planning and Development Services Manager prior to the meeting. You should particularly note that you should not make derogatory or defamatory remarks about other people. Any such comments may leave you open to legal action.

Q Can I speak more than once on the same application?

A The Planning Committee may seek points of clarification from participants. If a motion for deferral/a site visit arises from listening to the comments made during the public participation period and is duly agreed, public participation arrangements will apply to that item when it is next considered.

Q Whom do I ask if I have any other queries?

A If you have any questions not answered by this leaflet, you are welcome to contact :

**Democratic Services
West Lindsey District Council
Guildhall, Marshall's Yard
Gainsborough, Lincolnshire
DN21 2NA**

Telephone: 01427 676594/5

e-mail: committeeadmin@west-lindsey.gov.uk

Notes

- Councillors are elected to represent you on the District Council. You might like to contact your Councillor about the application concerned, but he/she will not be able to commit him/herself to a decision before hearing all the evidence and debate at the meeting. Councillors must take into account the laws and planning guidance as well as public opinion.
- The Chairman of the Planning Committee has absolute discretion regarding the interpretation of this scheme and its temporary suspension, variance or withdrawal at a particular meeting if it would be conducive to the debate or in the event that it becomes, or threatens to become, disruptive to the conduct of the meeting or the proper and lawful exercise of the council's statutory powers and duties.
- Minutes of Committee Meetings are published on the website and may also be viewed at council offices. Copies can be provided on request. There is a charge to cover printing and postage costs.

Other Leaflets in this Series:

Public Participation at Committee Meetings
and
Public Question Time at Council Meetings

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За повече информация пръстен 01427 676676

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További információ gyűrű 01427 676676

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Norėdami gauti daugiau informacijos žiedo 01427 676676

Aby uzyskać więcej informacji na ring 01427 676676

Pentru mai multe informații inel 01427 676676

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If you would like a copy of
this in large, clear print,
audio, Braille or in another
language, please telephone

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Appendix 4 – Extract from Part IV of the Constitution of the Council, “Chief Operating Officer – Development, Neighbourhoods and Strategic Growth” (page. 33 – 36) including revisions in **bold font** (see paragraph 1, sub-section j).

Development, Neighbourhoods and Strategic Growth

1. To determine the following:

- Applications for planning permission
- Applications for Listed Building and Conservation Area Consent
- Applications made under the Hazardous Substances regulations
- Applications for consent to display advertisements
- All prior approval applications

The above powers cannot be used if the following circumstances apply:

(a) In the case of an application it is intended to determine in conflict with a representation received from a parish or town council, a neighbour or other person or organisation, that application will be referred to the Planning Committee for determination where, in the professional opinion of the Strategic Lead, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth:

- (i) The representation relates to a “planning matter”; and
- (ii) The representation is relevant to the application under consideration; and
- (iii) The planning matters under consideration in the determination of the application are finely balanced.

(b) The application has been subject to a request by a councillor, made within 28 days of the publication of the weekly list upon which the application first appeared and supported by relevant planning policies and other material planning considerations, to have it determined by the Planning Committee for one of the following reasons;

- (i) The application is of major importance or significance to the District as a whole and therefore requires the input of Councillors in its determination
- (ii) There is, in the opinion of the Councillor making the request, a valid planning reason why the application should be determined by the Planning Committee and this is supported by planning policy.

It will be for the Chief Operating Officer or senior officer to decide in consultation with the Chairman of the Planning Committee, on the basis of the planning reasons given by the Councillor or planning policies referred to, whether the application should be referred to the Planning Committee for determination.

(c) An application has been on deposit in the statutory register for a period of less than 28 days or the period allowed for consultation replies to be received has not expired, whichever is the later.

(d) The applicant or agent is a Councillor.

(e) The applicant or agent is from the immediate family of a Councillor.

(f) The applicant or agent is an officer of the Council.

- (g) The applicant or agent is from the immediate family of an officer of the Council.
- (h) The Chief Operating Officer or senior officer within considers it appropriate that the application is determined by the Planning Committee.
- (i) Any application where the recommendation is for approval which is in conflict with a policy of the Central Lincolnshire Local Plan (NB this will only come into force once the Central Lincolnshire Local Plan is adopted as part of the development plan for West Lindsey) **or any Neighbourhood Plan that has passed Regulation 14 stage, being those plans at either an official draft stage or 'made' (adopted) Neighbourhood Plan.**
2. To determine all other matters which are part of the development management process, including (but not exclusively):
- (a) Approve details to discharge conditions attached to planning permissions
- (b) To enter into negotiations and reach agreements concerning obligations, agreements and undertakings – including those to do with s106 of the Town and Country Planning Act 1990 and the Community Infrastructure Levy.
- (c) To approve the details of agreements and obligations made under the planning acts (including those made under s106 of the Town and Country Planning Act 1990).
- (d) To approve non-material amendments to planning permissions.
- (e) To determine those organisations and individuals who should be consulted on planning and other applications.
- (f) To deal with planning appeals.
- (g) To decide the need for and content of environmental statements.
- (h) To decline to determine applications where a previous application has been dismissed at appeal and the new application is substantially the same.
3. To make Tree Preservation Orders and to confirm orders where no objection – relevant under current legislation – has been made.
4. To determine all applications to lop, top or fell protected trees.
5. To determine notices to make safe dangerous trees in private ownership and to take action to make the tree/s safe.
6. To determine all applications for the removal of hedgerows in accordance with the Hedgerow Regulations 1997.
7. To confirm any unopposed footpath orders following the expiration of the statutory consultation period.
8. To determine all applications relating to certificates of lawful use or development and related applications [NB the provisions set out in paragraph 1 points d to g with regard to officer and member applications and family relationships also apply to this category of application].

9. To make objections to the issuing of operators licences under the Transport Act 1968 and the Goods Vehicles (Operators Licences Qualifications and Fees) Regulations 1984.

10. To respond to consultations from neighbouring Councils on planning applications which might have an impact on the District, unless in the opinion of the Chief Operating Officer or senior officer that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.

11. To respond to consultations on proposals for major infrastructure developments within or having an impact upon the District, unless in the opinion of the Chief Operating Officer or senior officer that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.

12. To respond to consultations on pipeline consents within the District, unless in the opinion of the Chief Operating Officer or senior officer that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.

13. To respond to consultations on county matters or county developments, unless in the opinion of the Chief Operating Officer or senior officer that impact is of wider significance or of major importance to West Lindsey, under the duty to Co- operate.

14. To draw up service level agreements (SLAs) with other organisations for the effective delivery of services related to regeneration which includes, but is not limited to, economic development, tourism and skills and employment.

15. To enter into partnerships that increase the benefit, services and influence available to West Lindsey District Council with other organisations related to regeneration, which includes, but is not limited to, economic development, tourism and skills and employment.

16. To initiate planning enforcement action (including all action related to the listed buildings and trees), including (but not exclusively):

- (a) To serve enforcement notices
- (b) To serve breach of condition notices
- (c) To issue stop notices
- (d) To issue temporary stop notices
- (e) To serve planning contravention notices
- (f) To serve s215 notices
- (g) To authorise prosecution

Under all relevant statutes or any subordinate rules, orders or regulations.

17. To determine it is not expedient to take enforcement action in accordance with the Council's enforcement policy unless the Planning Committee has authorised the enforcement action.

18. To arrange for the renewal, on appropriate terms, of leases and licences.

19. To appoint Consultants where necessary within the budget to ensure compliance with the Council's Capital works Programme, or to provide technical advice on work of a specialist nature.

20. To submit applications for planning permission, listed building consent and other necessary consents in respect of any works included in the approved capital or revenue programme.