

PART 5. COUNCILLORS' PLANNING CODE OF GOOD PRACTICE

July 2023

Contents

1.	Foreword	3
2.	Introduction	3
3.	Planning policies and the Local Plan	4
4.	Applicability of the Code	4
5.	Breaches of the Code	4
6.	Training.....	5
7.	Role of the Councillor	5
8.	Role of the Planning Officer	6
9.	Role of the Monitoring Officer (or representative)	6
10.	Disclosure and Registration of Interests	6
11.	Predisposition, Predetermination or Bias.....	8
12.	Limiting discretion	8
13.	Members of more than one tier of local government.....	8
14.	Development proposals submitted by the Council, councillors and officers.....	9
15.	Lobbying and Negotiations	9
16.	Pre-Application Discussions including Planning Performance Agreements (PPAs) 10	
17.	Publicity	11
18.	Planning Applications	12
19.	Councillor 'call-in' to Planning Committee.....	13
20.	Site Visits by Planning Committee members	14
21.	Planning Committee	16
22.	Councillor and officer behaviour in committee meetings.....	17
23.	Webcasting.....	18
24.	Reports containing confidential or exempt information	18
25.	Public Speaking at Planning Committee.....	18
26.	Councillor representations on appeals against planning decisions.....	19
	Annex 1: Process for Councillor 'call-in' to Planning Committee.....	20

1. Foreword

- 1.1 This Probity in Planning guide is for councillors and planning officers and reflects the requirements of the Localism Act 2011, the recommendations of the Third Report of the Committee on Standards in Public Life ('Nolan Report'), Local Government Association guidance and the Council's own experience.
- 1.2 The guidance clarifies how all councillors should understand their roles and responsibilities when involved in planning discussions, plan making and determining planning applications.
- 1.3 It is important that councillors and officers familiarise themselves with this guidance and with the other Codes and Protocols which sit alongside it. Councillors must ensure that their conduct accords with the requirements of the Councillors' Code of Conduct and Member/Officer Protocol. Equally, officers must ensure that their conduct accords with the Code of Conduct for Staff and the Member/Officer Protocol.
- 1.4 Councillors should note that this guidance does not constitute legal advice.
- 1.5 Any councillor or officer with any doubts about the matters presented in this guidance should contact the Monitoring Officer for clarification.

2. Introduction

- 2.1 The planning system involves taking decisions about the use and development of land. It is not an exact science and relies on informed judgement within a firm policy context. It is important that all concerned (applicants, objectors, practitioners, officers, councillors, and the general public) have complete confidence in the integrity and transparency of the system.
- 2.2 Councillors are required to adhere to the following general principles prescribed by the Localism Act 2011, as attached to the Councillors' Code of Conduct:
 - **Selflessness.** Holders of public office should act solely in terms of the public interest.
 - **Integrity.** Holders of public office must avoid placing themselves under any obligation to people or organisations that try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves their family or their friends. They must declare and resolve any interests and relationships.
 - **Objectivity.** Holders of public office must act and take decisions impartially, fairly and on merit using the best evidence and without discrimination or bias.
 - **Accountability.** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- **Openness.** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty.** Holders of public office should be truthful.
- **Leadership.** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Officers are also obliged to adhere to the above-mentioned principles.

- 2.3 The Councillors' Code of Conduct makes clear that, in taking public office, councillors must accept constraints on their behaviour. It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- 2.4 This local code of practice has been prepared to reflect government guidance within the local context of Waverley. It is intended as a guide to councillors and officers to ensure that decisions are taken impartially, without bias and are well founded.

3. Planning policies and the Local Plan

- 3.1 This local code of practice also applies to decisions on development plans, supplementary planning guidance or other policy documents.
- 3.2 Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended). Decisions must be taken in accordance with the provisions of the Development Plan and councillors must vote in accordance with it unless there are mitigating material considerations.

4. Applicability of the Code

- 4.1 This code of practice is intended to be a guide for councillors and officers as to the conduct expected of them on matters relating to planning in the Borough.
- 4.2 Councillors and others to whom this code applies must make their own judgments as to its application to specific planning matters, including individual planning applications. In most cases, its applicability will be clear. If any councillor is in doubt, they should seek advice from the Monitoring Officer. However, the final decision must be for the councillor to determine.

5. Breaches of the Code

- 5.1 A breach of the code is a serious matter and, although usually not amounting to a breach of the criminal law, may incur an adverse report from the Local Government Ombudsman and/or action under the Councillors' Code of Conduct.

6. Training

- 6.1 The Council requires that all councillors receive an introduction to planning training session when they are elected. It is important for all councillors, not only those sitting on the Planning Committee, to receive this training. No member or substitute member of the Planning Committee shall be permitted to sit on the Committee as a decision-maker unless they have completed the introduction to planning training session.
- 6.2 For those members sitting on the Planning Committee further training sessions are delivered regularly. It is important that members and substitute members attend all training sessions so that any risk for the Council is kept low and the local community can be reassured that those determining Planning matters have the knowledge to be able to do so.
- 6.3 Members of the Planning Committee or substitute members who are absent when training is delivered must ensure they view the training recorded on the webcast to familiarise themselves with the training provided.
- 6.4 All councillors will receive training on the Councillors' Code of Conduct to remind them of the responsibilities of public office and remind them to review their register of interests regularly.

7. Role of the Councillor

- 7.1 Councillors and officers have different but complementary roles. Both serve the public, but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole.
- 7.2 The Court of Appeal has held that Planning Committees are not acting in a judicial or quasi-judicial role when deciding planning applications but "in a situation of democratic accountability". Planning Committee Members **must** therefore:
1. act fairly, openly and apolitically;
 2. approach each planning application with an open mind, avoiding pre-conceived opinions;
 3. carefully weigh up all relevant issues;
 4. determine each application on its individual planning merits;
 5. avoid undue contact with interested parties;
 6. ensure that the reasons for their decisions are clearly stated and
 7. consider the interests and well-being of the whole borough and not only their own ward.
- 7.3 The above role applies also to councillors who are nominated as substitutes to the Planning Committee. Equally, the conduct of members of any working

party or committee considering planning policy must be similar to that outlined above relating to the Planning Committee.

8. Role of the Planning Officer

- 8.1 Officers advise councillors and the Council and carry out the Council's work. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.
- 8.2 Planning officers advise councillors impartially on planning policy and planning applications. They will:
1. provide professional, objective and comprehensive advice;
 2. provide a clear and accurate analysis of the issues;
 3. advise on the development plan and other material considerations;
 4. give a clear recommendation; and
 5. implement the Committee's/Council's decisions (including those made by officers under powers delegated to them).

9. Role of the Monitoring Officer (or representative)

- 9.1 The Monitoring Officer will give clear, impartial, and objective advice to councillors:
- on legal issues arising out of the conduct of the Committee's functions; and
 - regarding the implementation of the Committee's decisions and proposed courses of action
- 9.2 The Monitoring officer will implement the Committee's/Council's decisions so far as they require the completion of any legal agreements, institution/defence of any proceedings, issuing of notices etc.
- 9.3 The Democratic Services Manager (or representative) will also give clear, impartial, and objective advice to councillors as necessary on administrative issues arising out of the conduct of the Committee's functions.

10. Disclosure and Registration of Interests

Disclosable pecuniary interests (DPIs).

- 10.1 A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property). Councillors, or their spouse/ partner, with a DPI in relation to any item on the Planning Committee agenda, may not speak on that item and should absent themselves from the debate and the vote. There is clear guidance in the

Councillors' Code of Conduct on what constitutes a 'disclosable pecuniary interest'. The Council has a publicly available register of councillors' interests.

Other Registrable Interests and Non-Registrable Interests

- 10.2 If a councillor has an Other Registrable Interest they must declare it at the meeting and must leave the meeting for the duration of the item. They may first speak on the item provided it is a matter on which the public also have a right to speak. Councillors should check with the Monitoring Officer if they are in any doubt. Examples of Other Registrable Interests include, but are not limited to:
- (a) membership of organisations to which the councillor has been appointed or nominated by the Council and in which the councillor holds a position of general control or management, or
 - (b) membership of, or holding a position of general control or management in, any body
 - that exercises functions of a public nature;
 - that is directed to charitable purposes; or
 - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- 10.3 A Non-Registrable Interest may arise before or during a meeting and is an interest that may, in the mind of a reasonable observer, affect a councillor's objectivity or judgement of the public interest. These are matters that directly relate to a councillor's own financial interest or well-being, or that of a relative or close associate.
- 10.4 The interest must be disclosed at the meeting and the councillor may not take part in the debate or vote and must leave the meeting room. If the planning application is available for public speaking, the committee member may speak for up to four minutes before leaving the meeting room.
- 10.5 It is very important that councillors disclose any interests they may have in particular schemes at the earliest opportunity. This requirement relates to individual planning applications and planning policies and proposals, which are being developed in development plans, supplementary planning guidance or development briefs.
- 10.6 Interests must be disclosed by councillors before the Committee discusses the item concerned. Such disclosures are usually taken at the start of the meeting and are recorded in the minutes.

Officers' interests

- 10.7 It is also important for officers to disclose interests in writing to their Joint Executive Head of Service /Joint Strategic Director, if they consider that those interests might affect their objectivity. In such circumstances, officers shall take no part in any decision-making process which relates to or affects those interests.

- 10.8 The Council also holds a register of officers' interests, which is not available to the public.

Gifts and Hospitality

- 10.9 The Councillors' Code of Conduct sets out rules on acceptance of gifts and hospitality by councillors. There is also guidance for officers and a register is held by the Monitoring Officer.

11. Predisposition, Predetermination or Bias

- 11.1 It is entirely permissible for Committee Members, who are democratically accountable decision makers, to be predisposed towards a particular outcome. Nonetheless, they must address the planning issues before them fairly and on their individual merits. That means they can have a view on the application but must not make up their minds on how to vote before formally considering the application, listening to the officer presentation, any representations and the full debate.
- 11.2 Committee Members must have an open mind to the merits of a proposal before it is formally considered at the Committee meeting and they must be prepared to be persuaded by a different view in the light of any detailed arguments or representations concerning the particular matter under consideration.

12. Limiting discretion

- 12.1 Councillors being involved with a matter that they will later be called upon to take a decision on as a member of the Council can limit their discretion.
- 12.2 Pressure is sometimes put on councillors to comment on a matter before the meeting, either in the press or on social media. Councillors should not put themselves in a position where it appears they have already taken a view. Councillors should always say that they will consider all the facts and take a decision based on the merits of the case presented.

13. Members of more than one tier of local government

- 13.1 Provided a member of the Planning Committee has not acted at parish or county level, in so far as they will have predetermined the matter, then they may remain in the Committee meeting to speak and vote.
- 13.2 Councillors serving on other councils may reserve their right to change their position when more information is provided at the Planning Committee meeting. More information may become available in the Planning Officer's report, which will include all representations.

14. Development proposals submitted by the Council, councillors and officers

- 14.1 Planning applications submitted by individual councillors or officers will be determined by the Planning Committee and not under delegated powers in order to maintain propriety and transparency.
- 14.2 Any councillor submitting a planning application is likely to have a disclosable pecuniary interest and must follow the guidance set out in the Councillors' Code of Conduct.
- 14.3 Aside from minor Council applications, which can be approved under delegated authority, proposals for the Council's own development will be treated with the same transparency and impartiality as those of private developers.
- 14.4 The Council has a corporate duty to ensure that:
- (i) Its development management functions are undertaken by identified persons provided with the necessary resources and acting impartially and objectively;
 - (ii) any person acting or assisting in the handling of a planning application is prevented from being involved in promoting or assisting in the promotion of the application and/or the development; and
 - (iii) any person involved in promoting or assisting in the promotion of the development is prohibited from giving any instructions to, or putting any pressure upon, any person acting or assisting in the handling of the planning application, or from attempting to do so.
- 14.5 It is recognised good practice to ensure that portfolio holders do not sit as members of the Planning Committee given the potential conflict of interest that is likely to exist in respect of applications in respect of the Council's own developments or developments which directly affect the Council's land or property.

15. Lobbying and Negotiations

- 15.1 Lobbying is usual during the planning process and those affected by an application will seek to influence individual councillors and the Planning Committee. Councillors should expect to be contacted in this regard and should listen to all views.
- 15.2 Councillors may offer advice, for example suggesting to those lobbying that they write to the planning officer or register to speak at the Committee but should take care when being lobbied that any comments they make do not give the impression that they have predetermined the matter. Instead, they should make it clear that they will not make a final decision until they have heard all of the arguments at the Committee meeting.

- 15.3 Political group decisions must not be taken on planning applications and related matters and councillors should not lobby one another or agree with one another on how to vote.
- 15.4 Councillors should adhere to the Member/Officer Protocol at all times and should not attempt to influence or to apply pressure to officers in any way. (If a councillor is concerned about the recommendation or the advice a case officer is giving, the Joint Executive Head of Planning Development must be informed immediately.)
- 15.5 Councillors on the Planning Committee may receive correspondence from the public asking them to reject or grant an application. If the correspondence is received before the officer has completed their report, the councillor should direct the author to submit their representations via the website: [Search for information about a planning application - Waverley Borough Council](#).
- 15.6 If the correspondence is received after the officer has completed their report and before the Planning Committee meeting sits, the councillor should forward the correspondence to the relevant planning officer who will report on late submissions as part of their Update report or presentation to the Planning Committee.

16. Pre-Application Discussions including Planning Performance Agreements (PPAs)

- 16.1 Pre-application discussions with potential applicants are an essential part of the planning process and help identify problems and address issues before the submission of an application. They can also be used to identify the right means of engagement before and during the application process. Such discussions are led by officers and the Council has a paid pre-application advice service and PPA service in place to ensure all discussions take place correctly. Councillors should be cautious of being approached in an attempt to circumvent this normal process. If any enquiries are received about obtaining pre-application advice, the Councillor should direct the enquirer to the Council's website: [Apply for our pre-application advice – Waverley Borough Council](#). Pre-application advice is confidential until the submission of an application and the applicant's consent must be gained before disclosing the advice. If a Councillor takes part in the pre-application process, they must be mindful of this confidentiality.
- 16.2 If a potential applicant requests a meeting with a Councillor, either before or after a pre-application enquiry has been made, the Councillor should contact officers before agreeing. The officer will advise whether a meeting at this stage is appropriate. If a meeting does take place as a matter of course an officer should be present. These should generally be in exceptional circumstances so as not to undermine normal pre-application discussions and to ensure good use of officer and Councillor time.

- 16.3 For large scale development proposals, it is appropriate to include relevant Councillors; however, this will normally be a briefing from officers rather than as direct engagement with the developer. Initially it will be for the officer to determine whether this briefing should take place.
- 16.4 There should be a record of any meetings which take place. It should be agreed ahead of the meeting who will be responsible for taking notes/records (applicant/officer/ councillor etc). Before being finalised, those notes should be circulated to attendees to ensure transparency. A copy will then be placed on the pre-app file for record.
- 16.5 Occasionally, a third party may make a request to make an informal presentation to councillors on development proposals that do not form part of any formal planning application, and which do not fall within the formal Application or Pre-Application process. The Council has adopted a protocol to establish clear guidance to third parties and the Council in respect of such requests, and to promote an environment of openness and transparency.

17. Publicity

- 17.1 There are statutory requirements in place around advertising planning applications dependent upon the type of application received. These are primarily set out in the Development Management Procedure Order:
- The Town and Country Planning (Development Management Procedure) (England) Order 2015 ([legislation.gov.uk](https://www.legislation.gov.uk)).
<https://www.legislation.gov.uk/uksi/2015/595/contents/made>
- 17.2 The Council will publish how it will carry out its duties to publicise applications in the Statement of Community Involvement which can be accessed on the Council's website.
- 17.3 Interested parties will have up to 21 days to respond with the exception of 'permission in principle' applications, where interested parties only have 14 days in which to respond. The Council cannot determine an application until this period has expired.
- 17.4 If an application is amended, the case officer will consider whether the extent of the changes requires a 're-consultation' and will determine the length of time, this will not normally be less than 7 days.
- 17.5 Anyone can respond to a planning application regardless of whether they have been formally notified. All comments received are made public as part of the planning application process (although sensitive information is redacted online)
- 17.6 Comments on an application should be made via the Council's website: [Search or comment on a planning application – Waverley Borough Council](https://www.waverley.gov.uk/commentonaplanningapplication) <https://www.waverley.gov.uk/commentonaplanningapplication> where progress of the application can also be tracked. If that is not possible, comments may

be submitted by email to: planningenquiries@waverley.gov.uk or by letter to the Joint Executive Head of Planning Development.

- 17.7 The purpose of this process is to seek people's views on the application. It is not possible to respond to individual written representations or enter into correspondence.
- 17.8 The number of representations received can affect whether an application is referred to Planning Committee

18. Planning Applications

- 18.1 All planning applications are determined either under delegated powers by officers or by the Planning Committee.
- 18.2 Planning applications are designated by statutory classes set out by regulation and these fall into three main categories:
- Major applications
 - minor applications
 - householders and others (these include listed building consent and advertisement consent applications)

Major development

- 10+ dwellings/over half a hectare/buildings exceeding 1000 sq. metres
- Office/light industrial – 1000+ sq. metres/1+ hectare
- Retail – 1000+ sq. metres/ 1+ hectare
- Gypsy/traveller site – 10+ pitches
- Site area exceeding 1 hectare

Minor development

- 1-9 dwellings (unless floor space exceeds 1000 sq. metres or the site area exceeds half a hectare)
- Office /light industrial - up to 999 sq. metres/under 1 hectare
- General industrial – up to 999 sq. metres/under 1 hectare
- Retail – up to 999 sq. metres/ under 1 hectare
- Gypsy/traveller site – 0-9 pitches

- 18.3 Planning applications are referred to the Planning Committee in the following cases:
- Planning applications defined as 'major' by the Government (i.e. 10 or more units of residential accommodation, more than 1,000 sqm commercial floorspace and site area of more than 1 hectare) and which in the judgement of the Joint Executive Head of Planning Development have major strategic implications for the authority.
 - Planning applications where a Waverley Borough Councillor asks that the application be determined by the Planning Committee and puts forward relevant planning grounds to the Joint Executive Head of

Planning Development in consultation with the Chair of the Planning Committee (councillor call-in).

- A householder application with 10 or more valid letters of representation with a view contrary to the officer recommendation.
- A major or minor application (non-householder) with 20 or more valid letters of representation with a view contrary to the officer recommendation.
- Any planning application where the Council is the applicant.
- Any planning application where the applicant is a Waverley Borough Councillor or employee, including Joint Officer, or their relative.
- Any planning application which is required to be referred to the Secretary of State.

18.4 Councillors are notified of all planning applications within their wards via the weekly lists. Councillors' comments received will be taken into account in determining the application. At any point prior to the Committee meeting, should councillors wish to give an opinion, they are advised to state that this is their opinion based upon the information currently available, which may change in the light of additional information. Councillor comments are kept on file.

18.5 In addition to planning applications, the Council also deals with other types of applications which are not subject to referral to Planning Committee as they deal with matters of fact rather than planning policies and/or are subject to determination deadlines which can result in 'deemed' consent being granted. These include:

- certificates of lawful development/use (existing and proposed)
- applications for prior approval or prior notification

19. Councillor 'call-in' to Planning Committee

19.1 Councillors should use call-in powers responsibly. There are likely to be many applications where Councillors may disagree with part of the recommendation. However, applications should only be referred to Planning Committee where there are strong planning grounds to do so. Referrals should not take place because an alternative development would be preferred or because of prior conduct of the applicant (including because the application is retrospective). By getting involved at an early stage, councillors can have their opinions and suggestions considered by officers and there is the opportunity for discussion.

19.2 The process for councillors to refer applications to the Planning Committee is set out in Annex 1. Councillors should aim to call-in an application as soon as is reasonably practicable.

19.3 Exclusions to this process are all Lawful Development Certificate applications; Prior Approval applications; Section 211 notifications (Trees in Conservation

Areas), and Statutory Consultations from other authorities including Surrey County Council.

- 19.4 The officer report is confidential until it is published on the Planning Committee agenda, if it is referred to Committee, or until the application is determined under delegated powers, and must not be shared or forwarded to the applicant, agent, Parish Council, or third parties before this unless forwarded by the planning officer.
- 19.5 If, in the opinion of the Joint Executive Head of Planning Development in consultation with the Chair of the Planning Committee a call-in request is not based on planning grounds then the request can be refused; however, officers will always explain their reason to the relevant Councillor.
- 19.6 Councillors who have exercised call-in will be expected to speak to the item when it is considered by the Planning Committee provided that, in the case of Planning Committee members, they have not demonstrated a predetermination.

20. Site Visits by Planning Committee members

- 20.1 Committee site visits may be conducted either before the meeting of the Planning Committee at which the application is to be determined following a request by a councillor, or the Committee may decide at the meeting to conduct a site visit. However, there may be circumstances where the Joint Executive Head of Planning Development considers the application to be of sufficient scale/importance that a site visit should be arranged irrespective of any request by Councillors. All formal site visits should follow the provisions of the Site Visit Protocol set out below.

Pre-Committee meeting Site Visits requested by a councillor

- 20.2. Pre-Committee meeting Site Visits assist with the debate at the meeting and avoid further delay to the determination of the application. Such site visits may be initiated on request by a councillor:
 - when making a call up request, or
 - following the publication of the Committee agenda by detailing their request to the Democratic Services Officer by no later than midday on the Thursday of the week prior to the Planning Committee meeting.
- 20.3 The request for a site visit is discussed in liaison with the Chair of the Planning Committee and Joint Executive Head of Planning Development at the Chair's Briefing (which is generally held in the afternoon on the Thursday prior to the Planning Committee meeting). If the Chair and Joint Executive Head of Planning Development agree the request for a site visit, the Democratic Services Officer will confirm the site visit details with the Planning Committee members and the applicant.
- 20.4 Pre-Committee meeting site visits will generally be scheduled to be held on the Tuesday before the Planning Committee meeting commencing at a time to

be agreed with the Committee Chair, subject to the availability of Committee members and access to the application site.

Site Visits agreed by the Committee

- 20.5 Site visits can also be requested at a Planning Committee meeting. Reasons should be given as to why a pre-Committee meeting site visit was not requested. Councillors must be mindful of the delay such a deferral will cause to the application and the implications, including possible appeal against non-determination. If the request is supported by the Committee, the application will stand deferred to enable a site visit to be scheduled at an agreed date and time. The Democratic Services Officer will confirm the site visit details with the Planning Committee members and the applicant.
- 20.6 The Committee minutes will show the planning reasons for the decision to hold a site visit.

Site visit protocol

- 20.7 In all cases site visits should only be held in circumstances in which it is not possible for councillors to make an informed decision on the application without seeing the site for themselves. Examples of such circumstances include:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers.
 - the comments of the applicant and objectors cannot be expressed adequately in writing.
- 20.8 Site visits are generally not appropriate in cases where purely policy matters are at issue.
- 20.9 A planning officer will attend all formal site visits.
- 20.10 Ward councillors will be invited to attend all site visits in their ward.
- 20.11 Site visits are:
- fact finding exercises.
 - not part of the formal consideration of the application and, therefore, public rights of attendance and speaking by applicants and objectors do not apply.
 - to enable officers to point out relevant features.
 - to enable councillors to ask questions on site for clarification. However, discussion on the merits of the application will only take place at the Planning Committee meeting when all parties will be present.
- 20.12 Councillors should not allow themselves to be addressed by individual parties, members of the public or applicants at formal site visits.

- 20.13 The Planning Committee Chair or, in their absence, the Vice-Chair must maintain control over the conduct of the site visit which, whilst not part of a formal meeting of the Planning Committee, must be conducted as a single meeting and in an orderly fashion.
- 20.14 Planning Committee members who are unable to attend a formal site visit may, if they wish, visit the site informally but should be mindful of the provisions of the Site Visit protocol. Any councillor who visits the site alone is only entitled to view the site from public vantage points and has no individual rights to enter private property. If alone, it is not good practice to enter the application site or any neighbouring property, even if invited by the owner, as this can lead to the perception that the councillor may no longer be impartial.

21. Planning Committee

- 21.1 The Planning Committee is made up of 15 borough councillors. Members of the Planning Committee may be substituted by any other member of their political Group who has attended the required mandatory planning training.
- 21.2 Planning Committee meetings are held in the Council Chamber, and usually take place on a Wednesday evening beginning at 6pm. Sometimes there are special meetings to discuss major or strategic applications.
- 21.3 Agendas are published on the Council's website five clear working days before each meeting.
- 21.4 Any member of the public can attend Planning Committee meetings and listen to the discussions about applications and other matters on the public part of the meeting agenda.
- 21.5 The Planning Committee makes decisions on about 5% of the planning applications the Council receives. The Joint Executive Head of Planning Development decides all other applications under delegated powers.
- 21.6 All meetings are open to the public (s100 Local Government Act 1972). Where there are aspects of a matter which are required to be dealt with in private, the Committee may pass a resolution to exclude the public from the meeting (s100A(4) LGA 1972). That resolution must identify the matters to which it refers and state the description of the "Exempt Information" under the relevant paragraph(s) of Part 1 of Schedule 12A to the LGA 1972.
- 21.7 Unless otherwise decided by a majority of councillors present and voting at the meeting, all meetings shall finish by no later than 10.30pm. Any outstanding items not completed by the end of the meeting shall be adjourned to a reconvened meeting or the next ordinary meeting of the Committee.

Procedures for dealing with planning applications at Planning Committee

- 21.8 Councillors (who are not Planning Committee members) who wish to speak on a planning application on the agenda, whether the site is inside or outside

of their ward, must register with the Democratic Services Officer by midday on the day of the Planning meeting and, if speaking in that capacity, cannot attend the meeting as a substitute. Councillors (who are not Planning Committee members) will be invited to speak after the public speakers, and may each speak for up to four minutes.

- 21.9 Committee members wishing to speak for or against an application situated in their ward must step away from the committee (to the rear of the Council Chamber) for that item. They may address the Committee for up to four minutes before the start of the Committee's discussion of the item, and again at the end of Committee's discussion.
- 21.10 In exceptional circumstances, the Chair can agree to speakers having longer than four minutes to address an item. An example of this would be a strategic site with multiple and complex issues.
- 21.11 Under Council Procedure Rules, the Chair has the right to decline to hear anyone behaving improperly at the meeting.
- 21.12 No additional written evidence or information such as photographs, plans or models may be circulated at the meeting.
- 21.13 Officers might occasionally defer an application following publication of the agenda.
- 21.15 The Planning Committee might defer an application at the meeting. A motion may be proposed and seconded at any time during the debate to defer or adjourn consideration of an application. The Committee will do this if members feel additional information is required, or if they would like to make a formal committee site visit.
- 21.16 If the Committee defers an application, the original public speakers will be invited to speak at the meeting when the Planning Committee considers the application again.
- 21.17 Councillors, objectors, the applicant and (where relevant) parish councils will be notified when an application is coming back to the Planning Committee following deferral.

22. Councillor and officer behaviour in committee meetings

- 22.1 Councillors and officers will afford courtesy and respect to one another, and to all of those attending committee meetings and/or making representations.
- 22.2 Committee members and substitute members should avoid delivering pre-prepared speeches in support of, or in opposition to, any application that may give the impression that they have pre-determined their decision.
- 22.3 It is considered acceptable for Committee members and substitute members to have prepared bullet points for any contributions they may make in advance of a meeting.

- 22.4 Committee members must be present for the whole of an item, including the officer presentation, public speaking and councillor representations, in order to vote.

23. Webcasting

- 23.1 All Planning Committee meetings will be webcast. Webcasts of meetings will be suspended in circumstances where the Committee considers confidential or exempt information during the consideration of any matter.

24. Reports containing confidential or exempt information

- 24.1 Reports or sections of reports published on pink paper marked "Restricted" will be subject to confidentiality and may not be viewed or shared with any other person outside of the Council.
- 24.2 On occasion, owing to the sensitivity of a matter, the confidential item will only be handed out in hard copy at the meeting itself. Councillors will be given sufficient time to read through the report prior to debating the item and coming to a conclusion.
- 24.3 Councillors must ensure that their private papers are handed back to the Democratic Services Officer at the end of the consideration of that item. This is essential so that the papers can be confidentially shredded.

25. Public Speaking at Planning Committee

Criteria to trigger the public speaking scheme

- 25.1 Public speaking at the Planning Committee meetings will be permitted in respect of a planning application and any other related consent applications to be determined by the Committee, where an application due to be considered by the Planning Committee receives 5 or more letters of support, OR 5 or more letters of objection by the deadline specified for representations.
- 25.2 In order to be counted in relation to the public speaking scheme, the representations must be from separate households.
- 25.3 Where an application triggers the public speaking scheme all those who have submitted written representations in compliance with paragraph 25.2 above will be notified and invited to register to speak at the relevant committee meeting.

Allocation of speaking

- 25.4 A maximum of three persons will be permitted to speak on each application, as follows: one person speaking in objection to the application one person speaking on behalf of the relevant town or parish council one person speaking in support of the application (usually the applicant or their agent)
- 25.5 Subject to the above, the spaces will be allocated on a first come, first served basis. All applications to speak must have been registered no later than noon

on the Friday preceding the Planning Committee meeting (usually on a Wednesday).

- 25.6 The registered speaker may appoint another person to speak on their behalf, or to share their time with other speakers.

Speaking at the meeting

- 25.7 A maximum of four minutes will be allowed for each speaker.
- 25.8 If the speaker has chosen to share their allocated time with another speaker the time allocation will run continuously.
- 25.9 Public speaking will follow the presentation of the planning application by the Planning Officer and precede the Committee's debate on the application. Members of the public speaking in opposition to an application will speak before those speaking in support of an application.
- 25.10 Speakers must confine their statement to relevant material planning issues. There is no opportunity to display maps, photographs, circulate documents or ask questions of others at the meeting.
- 25.11 If a decision on an application is deferred, any objectors or supporters registered to speak on that item will have the opportunity to speak again when the item is brought back to a future committee. If they do not wish to speak, the opportunity for others to register in line with the normal procedure will be afforded.
- 25.12 Applications will not be deferred because of the absence of an objector or supporter, or other person who has registered to speak.

26. Councillor representations on appeals against planning decisions

- 26.1 Where a councillor wishes to support an appellant on any appeal against a Council decision on a planning matter, that councillor shall give written notice of his or her intention to the Monitoring Officer and Executive Head of Service, as well as the appellant. Where the appeal is to be dealt with at an inquiry, the written notice shall be delivered not less than five working days before the start of the inquiry.
- 26.2 Councillors proposing to support an appellant at an appeal must in addition make it clear to the planning inspector that they are appearing in their personal capacity and not as a spokesperson for the Council.

Annex 1: Process for Councillor ‘call-in’ to Planning Committee

Applications to be included in this process:

- All planning applications, including S.73 applications
- Listed building consent applications
- Advertisement consent applications
- Tree Work Applications for trees subject to a TPO

Applications excluded from this process:

- Lawful Development Certificate applications
- Prior approval applications
- Section 211 notifications (Trees in Conservation Areas)
- Consultations from other authorities

Process

Upon validation of relevant applications, they will be included on the weekly list of planning applications.

Councillors will be requested to make one of the following responses:

- No comments
- I have concerns/see potential benefits (these must be planning considerations, directly related to the applications) and would like the application referred to committee. Please indicate planning concerns/benefits: ...
- I consider that due to the specific circumstances/scale of the development it will have wide ranging planning implications and I would like the application referred to committee. Please specify the nature of the wide-ranging implications: ...
- I do not wish to refer the application to Committee, but I would like the following comments/suggestions for conditions taken into consideration: ...

Where there is more than one Councillor representing a ward, all the ward councillors are able to comment.

Responses should be sent via email directly to the case officer and copied to PlanningEnquiries@waverley.gov.uk to ensure that it is recorded on the file and not missed due to officer absence. The request will be detailed in the officer's report.

Where comments are raised that are NOT material planning considerations the case officer will advise the Councillor of this before drafting the report.

Determination/referral to Committee

The referral of the application MUST have regard to the Councillor(s) response and the following scenarios may occur:

- Where “No comments” are specified; or where no councillor response is received, the application will proceed under delegated powers. No further councillor contact required.
- Where a Councillor has made a comment the case officer will include it in the delegated report and notify the Councillor.
- Where the Councillor response is a request to refer to Committee, their request will be referred to in the committee report. Should the application be amended, the officer will notify the Councillor to see whether their request stands.

All requests for referral to Planning Committee will be subject to ratification by the Executive Head of Service (or Strategic Director) in consultation with the Planning Chair.

Before the case officer writes the committee report, they shall contact the councillor to indicate what their recommendation on the application is likely to be and the reasons for it. This would enable the councillor to consider whether they still wish to call-up the application to Committee.

Notes:

- (1) A councillor who has requested an application to be called-in to Committee may, following further consideration, withdraw that request.
- (2) These referral measures do NOT affect the automatic thresholds for Committee referrals.