

Section 8 - Planning Code of Practice

Incorporated into the Constitution in December 2007; Revised January 2018; revised

Introduction

Planning decisions affect the homes and livelihoods of residents, businesses and other stakeholders, as well as impacting on the environment itself. They can be important and controversial and those affected by a planning decision can and should expect high standards of probity from the Council and a fair and accountable decision-making process.

This Code provides guidance to assist Members and Officers on how to ensure these standards are met. In doing so, it supplements the Members' Code of Conduct. This Planning Code of Practice applies to all Members when they are involved in the planning process.

The Code is divided into 2 parts:

- Part 1 :Guidance on conduct and decision-making issues in planning matters; and
- Part 2: Guidance on Planning Committee procedure.

For ease of reference, all references to Councillor and Member will refer to an elected member of the Epsom & Ewell Borough Council. Unless the context of the advice refers to the wider Council Members, the reference shall be to those who sit on or as substitutes on Planning Committee. References to the Council will, as the context so requires, refer to the Council's role as the Local Planning Authority.

Advice on this Code is always available from the Council's Monitoring Officer.

Part 1: Guidance on conduct and decision-making issues in planning matters

1 Conduct

The Code of Conduct for Members

- 1.1 The Code of Conduct for Members in Part 5 of the Council's Constitution imposes standards of conduct upon all Councillors. These standards are important within the context of when Members are involved in making decisions but also when they wish to raise matters on behalf of their constituents. The Code of Conduct for Members therefore sits alongside this Planning Code of Practice.
- 1.2 The key provisions that arise in the planning field are:
- To act solely in the public interest and never improperly to confer an advantage or disadvantage on any person or improperly act to gain financial or other material benefits for themselves, their family, friends or close associates;
 - Declaring and registering interests;
 - Making decisions free from bias and where the outcome is not pre-determined;
 - Declaring gifts and hospitality.
- 1.3 Although the Code of Conduct for Members is the key document, for easy assistance, a short note on each of these provisions is set out below.

Declaring Interests

- 1.4 Members must declare any interests in a planning decision to ensure the Member's private interests do not interfere, and are not perceived as interfering, with their public duties. The nature of the interest must also be declared save where it is a 'sensitive interest' as defined by section 32 of the Localism Act 2011.

Pecuniary Interests

What is a pecuniary interest?

- 1.5 A disclosable pecuniary interest is any interest prescribed as such by regulations issued by the Secretary of State (currently the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, the "Regulations") **and**
- a) it is either the interest of the Member; **or**
 - b) is the interest of their spouse or civil partner; a person with whom the Member lives as husband or wife; or a person with whom the Member lives with as if they were a civil partner; **and**

- c) the Member is aware that the other person in (b) has the interest.

When must pecuniary interests be declared?

1.6 A Member should:

- **Disclose** the interest at the start of the meeting when asked by the Chairman/Chair or, at the latest, when the Member becomes aware that an item relates to the pecuniary interest; **and**
- **Withdraw** from the meeting room for the relevant item, **and**
- Not participate or participate further in any discussion and / or vote on the matter at the meeting.

Non-pecuniary Interests

What is a non-pecuniary interest?

1.7 Non-pecuniary interests can include:

- Appointments made by the Council to any outside bodies (excluding joint committees with other local authorities);
- Membership of charities;
- Membership of lobbying or campaign groups;
- Governorships at any educational institution in the Borough; and
- Membership of voluntary organisations operating in the Borough.

Note to Members: please remember that you must declare the interests of your spouse or civil partner, or person with whom you are living as if a spouse or civil partner. However, if you are unaware of another person's interest or it is reasonable for you not to be aware of the interest, you will not be in breach of the Code by failing to declare it.

When must non-pecuniary interests be declared?

- 1.8 A member with a non-pecuniary interest must declare the interest at the start of the meeting or when it becomes apparent. The member may remain in the meeting and may participate in the matter and vote upon it.
- 1.9 The member should take into account guidance set out in the Code of Conduct for Members (Section 3) on predetermination and bias with regard to participation in meetings and seek advice from the Monitoring Officer where appropriate.

Abuse of Position

- 1.10 Planning decisions often have a significant effect on residents and other stakeholders. Members must serve the whole community when making planning decisions; they must consciously not use their vote to advantage or disadvantage an individual or business. This includes using a vote to favour themselves, a relative, friend or constituent; or to be overly influenced by a lobbying group. It also

includes doing something that adversely affects somebody or a group that a Member dislikes or opposes.

Examples:

*Advancing your own or a friend's or relative's planning application.

*Requesting that planning committee consider an application that you, a relative or friend opposes.

*Using visiting speaking rights to advance your interests or those of a friend or relative or oppose the interests of an adversary.

Note to Members: There is considerable crossover with the duty to declare interests and seeking to obtain an improper advantage – in each of the cases above the Member risks apparent bias, which could leave the decision open to challenge.

1.11 This rule only affects improper actions. It is perfectly proper for Members to consider legitimate constituency and lobbying interests, so long as the final decision in a meeting is based on an open consideration of all issues and proper planning reasons.

Declaring Gifts and Hospitality

1.12 Members should also be very cautious about accepting gifts and hospitality, particularly from developers. Members should bear in mind the public perception of the receipt of any gifts, although at times some limited hospitality is unavoidable.

1.13 Members are required to register the receipt of gifts and hospitality over the value of £100 (Code of Conduct for Members, Section 5) and the identity of the donor, and to declare these details at the meeting where they relate to the business to be conducted.

2 DECISION MAKING

2.1 Generally, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. It is important to note that if the development plan is not up to date, or if an up to date National Planning Policy Framework sets out requirements which conflict with a development plan, then elements of parts of the development plan may have been superseded. Decision making in such instances will need to carefully consider the wider policy context along with any material considerations. All references in this Protocol shall be read accordingly.

2.2 Any issue relating to the use and development of land is capable of being a material consideration.

- 2.3 When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 2.4 Planning applications that accord with the policies in the Development Plan suite of documents will be approved without delay, unless material considerations indicate otherwise.
- 2.5 Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:
- 2.5.1 Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- 2.5.2 Specific policies in the Framework that indicate development should be restricted.
- 2.6 Reasons must be given for either the grant or a refusal of a planning permission in accordance with Development Management Procedures.
- 2.7 The reasons to be given, where permission is refused or conditions imposed must:
- (1) be stated clearly and precisely;
 - (2) be relevant and full;
 - (3) specify all policies and proposals in the development plan which are relevant to the decision; and
 - (4) give details of any direction given, or opposing view expressed, by the Secretary of State or a Government Department.
- 2.8 If Members intend to make a decision contrary to the officer's recommendation, it is particularly important to ensure that Members are clear about the reasons for their decision before voting. Members are strongly advised to seek Officers' advice in these cases and may wish to defer the matter until advice has been sought. Any deferral period will need to be mindful of the requirements to determine an application within a regulatory timetable.

Predetermination and Bias

- 2.9 Those applying for planning permission, or objecting to a development, can expect that Planning Committee members will be unbiased and will not pre-determine the application. The appearance of predetermination or bias on behalf of any Member who takes part in the discussion and/or votes may result in the validity of any decision

taken on the matter being challenged through the courts. The courts have repeatedly quashed planning decisions where Members are held to have pre-determined the decision, irrespective of the fact they did not stand to gain financially or otherwise from the decision.

- 2.10 Pre-determination is a form of bias. It means that a Member has made up their mind on a planning application before hearing the evidence. It is perfectly permissible for a Member to have a strong view on an application; this is known as predisposition. Predisposition is lawful. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of those making representations. In other words, the Member retains an “open mind”.
- 2.11 Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a Member has done something that would indicate what view they may take in relation to a matter relevant to a decision. However, if a Member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination.
- 2.12 Members who also sit on other Council Committees, that have discussed and formed a view on a planning matter, should always seek advice on whether they may have pre-determined the matter.
- 2.13 Members who consider they may have predetermined an application should seek advice from the Monitoring Officer. They should declare any predetermination in the meeting and not take part in the relevant item(s).
- 2.14 Bias is also unlawful and can arise from a member’s relationships or interests, as well as their state of mind. The legal test is: *“whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased”*. A fair-minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek legal advice. Members should declare such an interest in the meeting and not take part in the relevant item(s).
- 2.15 Members should have in mind the advice in this Code at all times, including when attending Council briefings by Developers. When attending such presentations, it is vital that Members restrict themselves to factual questions and do not indicate a view on the development.

Examples:

* “I think the design is rubbish and there is no way I will be voting for it”.

* “My residents hate the scheme, so I will be refusing it”.

* "I have committed to opposing any scheme which has flats".

Note to members: Members should take great care when expressing an opinion which may be taken to indicate that have already made up their mind on a matter before they have considered the application and the arguments for and against a particular scheme.

3 LOBBYING

3.1 Those who may be affected by a decision on a planning application – applicants, developers, objectors, other councillors and pressure groups - will often seek to influence its outcome through the lobbying of their elected ward councillors or Planning Committee Members. Lobbying is a normal and legitimate part of the process, but unless all the parties concerned exercise care, it can lead to Members' impartiality and integrity being called into question.

How to Deal with Lobbying

3.2 Members must keep their minds open when considering a planning application. The intention of lobbying is to try to make a Member vote in a particular way on a decision. In dealing with lobbying, Members can listen to the views of their constituents and other stakeholders. However, they should refrain from expressing any opinion or view. Members must retain their independent judgement and serve the community as a whole when sitting on the Planning Committee.

3.3 This can at times prove difficult, because emotions and feelings often run high. If faced with such a situation:

- Members should tell lobbyists politely that, as they sit on the Planning Committee, they cannot express any views on an application's merits before the meeting or agree to vote in a particular way;
- Members can listen to what lobbyists have to say but then should direct them to the relevant Planning Officers and provide advice on how to contact Officers;
- Written representations and petitions should be directed to, or forwarded to, the relevant planning Officers;
- Members should not enter into a debate on the merits of the application, as this may lead to comments being misinterpreted;
- Lobbied Members should seek advice if they consider it may affect their ability to determine an application fairly;
- Members should declare any lobbying at the relevant planning meeting.

These requirements also apply to local ward meetings, when the merits of specific developments are discussed. Planning Committee Members should explain that they cannot participate in the discussion if they intend to sit on the Planning Committee when any subsequent application is to be determined.

Membership of Lobby Groups

- 3.4 Lobbying can lead to impartiality and ultimately the integrity of a councillor being called into question. Therefore, those Members who wish to be on lobby groups need to consider very carefully whether this is compatible with any role as a member on Planning Committee.
- 3.5 Members involved in planning decisions should take care when joining and being active in lobby groups. When considering whether membership of a lobby group could create the perception of bias or pre-determination of the matter, Members should consider the following factors:
- The nature of the matter being discussed;
 - The nature of your involvement in the group;
 - The publicly expressed views of the lobbying group;
 - What the Member has said or done in relation to the particular issue.
- 3.6 Membership and involvement in a lobby group – particularly a leading role in a campaign – can give rise to the risk of predetermination. Members are encouraged to seek the advice of the Monitoring Officer before participating in planning decisions where membership of a lobby group is relevant.

Examples:

* Members can be lobbied by objectors, supporters or developers of a scheme.

* Belonging to an action group is likely to be seen as a lobby group

* Any Members of Planning Committee, speaking as ordinary Members at a meeting on an item, where they are addressing Planning Committee on behalf of a lobby group, once they have spoken, must withdraw from the room for that item.

Note to members: Members should take great care to ensure they have declared if they have been approached by any party during the declaration of interests' item.

The Party Whip & Lobbying by Councillors

- 3.7 Political party whipping can be seen as a form of lobbying and is inappropriate in Planning Committee meetings. Lobbying by councillors should be dealt with in the same way as other lobbying.

Pre-application Discussions

- 3.8 Pre-application discussions are a normal part of the planning process and can be of considerable benefit to both parties.

3.9 If Members are involved, such discussions can become, or be seen (especially by objectors) to become, part of a lobbying process. Pre-application discussions should therefore be left to Officers. If Planning Committee Members are involved in pre-application discussions, the following principles should apply:

- Involvement must only be in meetings arranged by Officers and an officer must be present at all times;
- Officers will inform the developer in writing of the purpose of the meeting and the principles set out in this section and will confirm the outcome of the meeting in writing afterwards;
- Members should avoid any contact, whether in person or not, with the applicants or the agents outside these meetings;
- Members must not express an opinion on the application or involve themselves in any negotiations on the development that could suggest they have predetermined the application;
- Members must not attend meetings with a Developer after an application is lodged, unless organised and attended by the Officers. This includes any public exhibitions relating to an application which has been lodged with the Council;
- Members must declare their attendance at any such pre-application meetings and any other meetings involving the Developer, at the subsequent consideration of the application.

4 PLANNING APPLICATIONS BY THE COUNCIL, COUNCILLORS & OFFICERS

4.1 It is perfectly legitimate that the Council, acting as the Local Planning Authority, will have to determine its own planning applications, and those of Members and Officers. The Council needs to take additional care with such applications and the public perception of how such applications are handled is crucial to the Planning Committee's credibility as an impartial decision-making body. The following principles will be followed:

- Proposals for the Council's own development that include the erection of any building or a material change of use will be determined by the Planning Committee;
- Minor changes to a granted consent or an uncontested application, can be delegated to Officers to determine under Officers Scheme of Delegation;
- Officers who submit an application in respect of a planning matter will take no part in its processing or determination and shall not seek to influence it improperly;
- Officers who act as a decision maker or as agents for the Council in pursuing a planning matter will take no part in its processing or the decision-making process and shall not seek to influence it improperly;

- All applications made by Members and Officers or on their behalf (including Lawful Development Certificate applications) will be determined at Planning Committee;
- Members who sit on other Committees should take care when participating in planning decisions relating to a matter which they may have already determined, as they may be viewed as having pre-determined the application in their other role;
- Members who are close friends or relatives of other councillors making planning applications are likely to have the potential for apparent bias and/or predetermination and should seek advice before participating in the decision-making process;
- There is no bar on Members determining applications of councillors who are in the same political group so long as they are not close friends, business associates and/or relatives, or have not pre-determined the application.

5 MEMBER BRIEFINGS

- 5.1 For large or complex applications it might be appropriate to hold a briefing for Members where an applicant explains their application. This may occur either before the application is submitted or before it is determined by the Planning Committee. Members' briefings will be open to all Members (not just those on the Planning Committee) and will be used by the applicant to provide information only. All such briefings will be organised by Council Officers.
- 5.2 Such briefings are not part of and do not substitute for any part of the decision-making exercise to be undertaken by the Planning Committee.
- 5.3 At a briefing, Members must not express an opinion on the merits of a proposal or involve themselves in any negotiations on the development. The questions which Members can ask must be of a factual nature only.

6 SITE VISITS

- 6.1 Although some Members may have personal knowledge of a particular application site, organised site visits are nonetheless a useful means of putting an application into its physical and environmental context. There are two main circumstances where Members may need to undertake site visits:
- A formal visit of the Committee organised by Officers;
 - Informal visits before a Committee meeting by individual Members who cannot attend the formal visit.

Formal Site Visits

- 6.2 Officers may recommend, or Members of the Committee may request, a formal site visit. Any recommendations for site visits must be sent to the Head of Service for Planning. Site visits to larger, complex or controversial sites will be arranged for Members of Planning Committee shortly before the Committee meeting. At these site visits, Officers will accompany Planning Committee Members to selected sites, explain the nature of the development proposed and point out any features that Members should consider when determining the application.
- 6.3 The purpose of the site visit is to enable Planning Committee Members to inspect the site and to better understand the impact of the development. The following procedure should be followed:
- Visits will not be publicised save to obtain permission to enter private land;
 - The applicants, objectors or any other parties interested in the application will not be allowed to accompany Planning Committee Members and Officers, except where attendance is necessary to allow entry, or for health and safety or other necessary purposes;
 - No representations should be heard and no opinion expressed and no decision should be made;
 - Photographs and videos (of areas not publicly accessible) may be taken only with consent of the owner.

Informal Site Visits

- 6.5 If a Member cannot attend the formal site visit and wishes to view the site, s/he may undertake an informal site visit. The Member should follow the principles below:
- Visits should be discreet and unaccompanied;
 - If approached, Members should explain who they are but politely refuse to engage in any discussion of the application;
 - Members should not go onto the application site itself if private land, to avoid risks of lobbying, trespass and for health and safety reasons;
 - Visits should be declared at the meeting;
 - Photographs and videos (of areas not publicly accessible) may be taken only with consent of the owner.
- 6.6 Attendance is not compulsory, but Members who did not attend a formal or informal site visit should consider whether they have sufficient knowledge of the proposals to take part in the subsequent debate and vote and should be careful if they wish to raise the need for a site visit at any discussion of the Committee.

7 MEMBER DEVELOPMENT

- 7.1 The planning system is complex and subject to change. As a matter of good practice Members deciding planning applications and Members acting as substitutes on Planning Committee, should have an accurate and up-to-date understanding of planning law and procedure. Officers will ensure there is a programme of on-going Members' planning training, which covers all relevant issues. Members are expected to attend as many sessions as possible and especially those covering the key issues or held after a major change in planning policy or law and as a part of the programme of continuous development. All compulsory sessions must be attended before a Member sits as a decision maker on Planning Committee.
- 7.2 Any Group should maintain a list of Members who have received training and only put forward substitutes from this list. A Member or a substitute Member cannot sit on Planning Committee unless they have received the necessary compulsory training.

8 MEMBERS ACTING IN THEIR PRIVATE CAPACITY

- 8.1 Members acting in their private capacity are not entitled to call planning applications in and have only the same rights as any other member of the public or planning professional in terms of meeting with Council Officers and being able to access information about planning applications.

9. MEMBER CALL-IN PROCEDURE

- 9.1 A Planning Committee Member or a Member representing the Ward in which development is proposed, or one where the development is adjacent to or on the boundary of a neighbouring Ward, may wish for a planning application to be considered by the Planning Committee. In these circumstances, the following rules will apply to call in a matter, any failure to do so will allow such application to be determined under delegated authority:
- A "call-in" request must be received within 28 calendar days following the date of public notification by the Planning Service. This gives Members enough time to read the comments being received from other parties (who have 21 days to comment);
 - The request must be on the relevant form (which can be sent by email) to the Case Officer, copied to the Head of Planning and Planning Development Manager and the Chairman/Chair of the Planning Committee asking that the item being referred to, be "called-in" to the Planning Committee;
 - The request must be on relevant planning grounds or merits intervention, to have the application placed before the Planning Committee.
- 9.2 It is not the case that just because a member of the public requests call-in of an application on their behalf, that this should be actioned. It is the responsibility of Members to explain to their electorate that a call-in cannot be justified.

- 9.3 All “call-ins” made by Members within time, stating valid material planning grounds and or justifying why it merits intervention or other relevant issues will be valid.
- 9.4 Where the “call in” is not made on material planning or merits intervention grounds, the “call-in” will be invalid. The decision as to whether the grounds are justifiable will be the decision of the Head of Planning, in consultation with the Chairman/Chair of Planning Committee.
- 9.5 A Member who has a Disclosable Pecuniary Interest or if there is a risk of the Member being seen as biased, for example if the Member has a very strong connection through a non-pecuniary interest should not ask for an item to be called in.
- 9.6 Members who have asked for a call-in must ensure that they attend the committee meeting to which the item is being discussed to explain the planning reasons why the application merited consideration by the Planning Committee.

Part 2: Guidance on Committee Procedure

1. INTRODUCTION

- 1.1 This guidance supplements the Council Procedure Rules which apply to Planning Committee, providing advice on specific issues that arise before and in Planning Committee meetings.

2 REPORTS

- 2.1 Reports on planning applications form the key evidence base for Committee decisions and must therefore be accurate, comprehensive and fair. Reports must include
- all relevant development plan policies and material considerations;
 - a clear recommendation with a supporting technical appraisal;
 - a summary of the reasons in support of the recommendation; and
 - details of the conditions and obligations required to be imposed.
- 2.2 There is a risk that when significant material is submitted at a late stage, insufficient time is allowed for the Committee to read or digest it, and the public are not sufficiently informed.
- 2.3 Update reports should be submitted only when information was not available to Officers before the publication deadline for the main report and which the Committee requires:
- to make a fair decision,
 - information requested by Members during a Committee site visit,
 - or additional conditions or informatives.

Time will be set aside at the meeting for Members to read any update report.

3 APPLICATIONS OF COMMUNITY INTEREST

- 3.1 Upon receipt of an application, the officer responsible for development management must consider whether the application is of such community interest that changes need to be made to the usual meeting arrangements. This is likely to be the case if there have been more than 300 representations made. If so, s/he must arrange a pre-meeting with Planning Officers, Legal & Democratic Services, Town Hall Support and the Chairman/Chair to consider:
- The need for a separate meeting;
 - Modifications to the usual rules on public speaking;

- The provision of additional staff to support visitors;
- Risk assessment.

3.2 Any variations agreed to the Committee procedure must be included in the Agenda front sheet and reasonable steps must be taken by the report writer to inform the public and Members.

3.3 There may be a need at late notice to vary the arrangements for a meeting in the event of either changes of circumstances or following a risk assessment. Notice of any changes will be given as soon as possible using appropriate medium. The decision of the Council will be final on any necessary late changes to the meeting's arrangements.

4 CHAIRMAN/CHAIR'S BRIEFING

4.1 The Chairman/Chair, may hold a briefing session with Officers to review the agenda and go through the procedures for the meeting, to ensure effective management of the meeting.

5 ORDER OF BUSINESS

5.1 Meetings will have the following order of business:

- Emergency evacuation procedures;
- Apologies for absence and substitutions;
- Introduction of Officers present
- Declarations of interests under the Code of Conduct – (those with pecuniary interests will leave the room at the start of the appropriate item);
- Minutes of the previous meeting;
- Chairman/Chair's consideration of any update reports;
- Items where prior notice of public speakers has been given;
- All other items in the order on which they appear on the agenda.

5.2 The following order will be used for each agenda item, although individual items may not need to follow all these stages, e.g. if there are no public speakers:

- Presentation by planning officer;
- Up to 2 registered objectors may speak;
- Up to 2 registered supporters may speak (including applicants or their agents);
- Ward Members may speak if their constituents have an interest that could be affected directly by the matter under consideration. Ward Members must also consider if they have an interest to declare under the Code of Conduct before participating;

- Committee Members' questions and debate;
- Agreement in any officer update to the report/recommendations or any changes proposed by Members to the recommendations;
- Voting.

6 MEETINGS GUIDANCE

6.1 To ensure probity and transparency, the following guidance should be followed when considering an application:

- There must be no informal communication between Committee Members and any other person (including other Members). This includes during any adjournments. Any questions or comments should be made openly and through the Chairman/Chair;
- Members must be present for the whole of an item in order to be able to vote on that item. If a Member arrives late, s/he must not vote on any item already in progress at the time of his/her arrival. If a Member requires a comfort break, the Chairman/Chair should grant a short adjournment;
- Where an application is part heard, i.e, it is determined over more than one Committee meeting, the only Members who may vote on the application are those Members who are present at all meetings when the application is considered;
- Reasons must be given for any decision reached – this is a legal requirement and should be clear before any vote.

7 VOTING

7.1 The Committee's voting procedure must be clear, transparent and easy to follow. It is important that the public, the applicants and all other persons present understand what the Committee is voting upon. This can be difficult where the Committee has to vote more than once on an application, or for example, to deal with motions to include planning conditions and obligations.

7.2 All applications will usually be voted upon as follows:

- No motions will be proposed during the debate of the matter, without the Chairman/Chair's permission, to ensure a full debate on the matter under consideration;
- The Chairman/Chair will determine when the debate is finished, clarify any changes made to the officer recommendation and the details of what is being moved, including any additional planning conditions, informatives or obligations proposed;
- If Committee Members wish the item to be deferred for any reason (e.g. further negotiations or a site visit), this should be considered before any other formal decision making takes place on the recommendations;
- The Chairman/Chair will invite any Committee Member to move and second the adoption of the officer's recommendation either to grant or refuse planning

permission (as set out in the report). Any changes or amendments to the Officer's recommendation must be moved and seconded by Members and determined by the Committee before those in the Officer's report;

- Any motion proposed and seconded, will be voted upon;
- If a motion to grant planning permission is not carried, or no Member proposes the officer's recommendation, the Chairman/Chair will invite Members to move and second any other motion, which will then be voted upon. Reasons must be given for either the grant or a refusal of a planning permission (Town and Country Planning Development Management Procedure).
- The reasons to be given, where permission is refused or conditions imposed must:
 - ✓ be stated clearly and precisely;
 - ✓ be relevant and full;
 - ✓ specify all policies and proposals in the development plan which are relevant to the decision; and
 - ✓ give details of any direction given, or opposing view expressed, by the Secretary of State or a Government Department.

8 PUBLIC SPEAKING

- 8.1 Although the public have no legal right to speak at Planning Committee meetings, the Council recognises the value of representations on planning matters. Therefore the Council has adopted a protocol which encourages public participation, by allowing those wishing to address the Planning Committee to be able to do so. The rights set out below are those that apply.

Speakers

- 8.2 Up to 2 speakers who wish to object, and up to 2 who wish to support (which includes the agent/applicant) may make oral representations, with 3 minutes allowed per speaker. The following procedure will apply:
- The agenda and reports for the meeting and relevant plans are published on the Council's website at least ten clear working days before the meeting;
 - The agenda papers will specify a date and time by which those wishing to speak on a planning application, must register their request to speak.
 - **In the event of a hybrid meeting, a speaker presenting remotely will be asked to submit a written statement that can be read out at the meeting in the event of any technical issues during the meeting. The statement must be of no more than 3 minutes in length when read aloud. If a number of people wish to speak on a particular application, public speaking will normally be allocated in order of registration.**

- If written statement is not submitted, then a speaker's place may be allocated to those on the speakers' waiting list. Further information is available by contacting Democratic Services, email: democraticservices@epsom-ewell.gov.uk, tel: 01372 732000.
- Only one speaker per household or organisation will be allowed;
- In the case of large groups wishing to speak, they may be required to nominate a lead speaker or need to be represented by a Ward Member to ensure a fair balance of speakers – see 8.4 below);
- If no advance notice of those wishing to speak in accordance with this Code, is given, there is no right to address the Committee;
- Public speakers have no right of reply, and cannot engage in any debate. The purpose of having written statements is to support the holding of meetings which may have an element of being held remotely. As such the written statements will not be passed on Planning Officers before the Committee Meeting where these statements are being made. Any statement which has to be read out, will be read out as it appears by the Legal or Democratic Services Officer.

The Applicant or Agent

8.3 The applicant or agent (as stated on the application form) will have three minutes to speak. The rules at 8.2 above apply.

Ward Members

8.4 There are three categories of Ward Members who are can or must to address a Committee meeting:

- those wishing to speak on an application they have asked to be called in;
- where the application is in their Ward
- their adjourning Ward is directly affected by an Application

8.5 Ward Members will be allowed to speak for three minutes each. They have no right of reply or to ask questions. They should advise Democratic Services of their intention to address the Committee by noon of the day of the Committee meeting.

Part Heard & Adjourned Applications

8.6 A 'part heard' application is one which has started to be heard at one committee but has not been possible to make a decision on the agenda item at that meeting. An 'adjourned' application is one which is on an agenda, but the Committee were unable to start dealing with the item.

8.7 In exceptional circumstances where an application is part-heard (i.e. determined over more than one Committee meeting), the Chairman/Chair may consider whether to allow any or all parties additional speaking rights in the following circumstances:

- A party has requested a further right to speak and the Chairman/Chair is satisfied:
 - There is a significant gap or delay between the first and second Committee meetings; and/or
 - There has been material amendment in the nature of the application (but not requiring a fresh planning application).

8.8 The Chairman/Chair will seek advice from Officers before exercising his/her discretion to allow further speaking rights under this section.

8.9 For the avoidance of doubt, speakers who were not registered to speak at the original meeting are not permitted to speak on any part heard applications or on an adjourned application. If the original speaker is unable to attend any part heard or adjourned application, they can nominate someone who can speak for them. The Chief Legal Officer will consider any such request for substitution.

9 MEETING ETIQUETTE

9.1 All representations should be heard in silence and without interruption. The Chairman/Chair will not permit disruptive behaviour. The Council's Standing Orders on good order in meetings (CPR18) applies to Planning Committee. The Committee is a meeting held in public, not a public meeting.

10 VARIATION

10.1 The Chairman/Chair may, in appropriate circumstances, vary the procedure set out above where it is appropriate to do so to ensure a fair hearing and on the advice of Officers.