

Protocol for Operation of Planning Committee Derry City and Strabane District Council (Revision 4) December 2019

Preliminary Matters

- A weekly list of all new applications to be circulated to all Councillors.
- A list of delegated decisions issued will be presented to Committee on a monthly basis.
- All Planning Committee Members will be sent the agenda in advance of the meeting with a report on each application to be considered by the Committee.
- Officers should prepare an addendum for presentation on the day of the meeting to report any updates or late representations since the agenda was issued.
- The Chair will hold a pre-meeting with planning officers on applications and other relevant planning matters, to be considered in advance of the Planning Committee meeting.
- Planning Committee meetings should be open to the public.
- Substitute members will not be permitted to deputise.
- Legal representation will be in attendance at Committee.
- All members of Planning Committee must have taken the requisite training for either member or Chair role before they can sit on the Committee.
- In the event of any conflict between the terms of the Protocol for the Operation of the Planning Committee and the Delegated Scheme, this Protocol will take precedence.

1. Size of Committee

Derry City and Strabane District Council (hereinafter referred to as DCSDC) comprises 40 Councillors and has resolved that the Planning Committee shall consist of not more than 14 members.

The quorum for the Planning Committee shall be 7 (seven) members present and eligible to vote.

2. Frequency of Meetings

Planning Committee will meet at least once a month (except August). Additional or special meetings will be at the discretion of the Chairman with the consent of the Committee.

3. Remit of Planning Committee

1. Development Management

The main role of the Planning Committee is to consider planning applications made to the Council as the local planning authority and decide whether the applications shall be approved or refused. The decisions of the Planning Committee in determining planning applications will be taken on behalf of the Council and will not go to the full council for ratification.

2. Development Plan

Council will be required by Section 8 of the Planning Act (NI) 2011 to prepare a Plan Strategy for its Council first and thereafter and once adopted must then prepare the second stage, a Local Policies Plan. The Planning Committee will undertake this function which could include separate meetings/workshops.

3. Enforcement

The Planning Committee shall be required to consider and determine whether to commence with a prosecution through the courts, all other enforcement activities into alleged breaches of planning control will be delegated to planning officers, who can use their professional judgment on what enforcement action to take, if any, depending on the circumstances of each case.

The Planning Committee should also be informed of progress on cases on a quarterly basis and can request a report from officers on any enforcement matter but should not take a decision. Officers will exercise discretion when discussing sensitive enforcement matters at the Planning Committee to ensure possible future legal proceedings are not prejudiced.

4. Referral of Delegated Applications to Planning Committee

The Scheme of Delegation approved in February 2015 at Shadow Planning Committee includes a procedure which allows for Planning Committee members, the Chair and Head of Planning to request that the Planning Committee considers an application rather than it be delegated. Members of the public will not be able to directly request this procedure.

Any referral must be based on clearly specified planning grounds to ensure efficient management of the Planning Committee. Requests in writing giving planning reasons should be made within 1 week of the list of delegated applications being circulated to members or 1 week after the advertisement or re-advertisement date whichever is the later. Requests should be forwarded by email to the Chair or to the dedicated email address which is **Planning E. Members** on the global address list. This applies also to Head of Planning and Chair. This time line will enable proper consideration of the request and to advise agents if referral to Committee has been agreed.

Head of Planning and Chair shall consider the merits of such requests, determining whether planning grounds have been presented and the potential impact that such requests would have on the efficient operation of the Planning Committee. Non Members of the Planning Committee can make such requests through the Chair. It is also recommended that Council monitor the number of referrals.

5. Format of Planning Committee Meetings

Should include:

1. Notice of meeting and agenda
2. Apologies
3. Approval of minutes of the previous meeting
4. Declaration of interests: Members are required to complete a declaration form (as attached) in advance of committee proceedings commencing. This does not negate the verbal declaration of interest at Committee. Members who have declared an interest on an item must remove themselves from the Chamber/Committee room
5. Schedule of planning applications
6. Development Plan issues

7. Enforcement report where necessary
8. Delegated applications list
9. All parties wishing to address the Committee must register their wish to do so in writing with the Council's Planning Committee Administrator by 12 noon two working days before the meeting. The generic e-mail address is planning@derrystrabane.com. As speaking rights are intended only to allow parties to highlight issues which have already been articulated in written submissions, it is only in exceptional circumstances that the Chair may accept a late request or extend the time at his/her discretion.

The following procedures will apply for each application:

i. Introduction by Planning Officer

The Planning Officer presents the application and makes a recommendation on whether the application should be approved, approved with conditions or refused with reasons for refusal. Plans/drawings and photographs can be used to demonstrate the proposal (if no speakers please refer to point vii).

ii. Representations – Objectors

If an objector wishes to speak, they will address the Committee first. Should an objector speak, the applicant should be allowed to respond if they wish, even if they have not registered to speak in advance. The total time allowed for objectors to address the Committee will not be more than 5 minutes unless the Committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances. If more than one objector or supporter wants to speak, the Clerk/Chair will ask objectors to appoint a spokesperson to represent their views.

iii. Members' questions to objectors.

iv. Representation by Councillor, MP or MLA

The total time allowed for representations by council members in support of an application will be 5 minutes.

The total time allowed for representations by council members against an application will be 5 minutes.

MPs and MLAs will be permitted to address the Planning Committee when they have been asked to represent their constituents. Proof of this fact must be submitted to the Planning Committee. The total time allowed for representations from MPs and MLAs will not be more than 5 minutes each with an upper cap of 20 minutes for this section, split between 10 minutes for supporters and 10 minutes for objectors.

- v. Representation on behalf of applicant, agent or supporter

The total time allowed for applicant, agent or supporter to address the Committee will not be more than 5 minutes unless the committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances.

If more than one supporter wants to speak, the Chairman may ask the supporters or objectors to appoint a spokesperson to represent their views.

No documentation should be circulated at the meeting to members by any speakers.

- vi. Members' questions to applicant, agent or supporter.
- vii. Planning Officers' comments and Members' questions to Planning Officers.
- viii. Members' debate and consideration of all information and representations put to the Planning Committee. Further advice may be provided by Planning Officers on points of law and planning policy if required.
- ix. Members' decision.
- x. All proposals should be tabled and determined

The members take a vote on whether or not to agree with the Officer's recommendation. The Chair has a casting vote.

Members must be present in the council chamber for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.

Should Committee not agree with the Officer recommendation, Members should discuss reasons for refusal and conditions to a proposal but cannot amend the application. Any additional conditions should be proposed and seconded before being voted on by members. Members should be aware of the legal tests conditions need to meet if challenged; they should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. Planning Officer/Head of Planning comment should be invited, as necessary.

The reasons for any decisions which are made contrary to the Planning Officer's recommendation must be formally recorded in the minutes and a copy placed on file.

The decision of the Planning Committee in respect of the refusal or approval of an application is final from the close of the meeting at which the application is heard.

The Chairman may:

- a) suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting; or
- b) vary the order of representations if he/she feels that it is convenient and will assist the Committee in dealing with the matter provided that it will not cause prejudice to the parties concerned.

Length of Planning Committee Meetings

Standing Orders have been amended to ensure that any given sitting of the Planning Committee will not exceed four hours, normally beginning at 2.00pm and finishing at 6.00pm. Any business that remains to be transacted will normally be dealt with the following day, the meeting to begin at 2.00pm in the same venue.

Late representations/objections

Where late representations/ objections **on planning grounds only** have been received, items will be circulated to members and considered as a part of the case officer's presentation.

If a Council Member is unable to attend the Committee and submits representations in writing, such representations may be read out at the Committee provided that there is sufficient time, i.e. the 5 minutes allocated for Council Member representations.

Any item listed on the agenda for which a late representation/objection has been received will be moved to the end of the agenda. The Chair will then allow an appropriate amount of time for the said late item to be reviewed before the representation/objection is considered by the Committee.

6. Decisions contrary to Officer Recommendation

Some planning decisions are finely balanced and it is the prerogative of the Planning Committee to come to its conclusions and decision provided they are backed by sound, clear and logical planning reasons following an informed debate. Planning Committee can accept or give different weight to the various arguments and material considerations. The planning officers/Head of Planning will have the opportunity to explain the implications of the Planning Committee's decision. Consideration will need to be given to whether such decisions will be capable of being defended on appeal (to the Planning Appeal Commission) with the potential for costs.

Where members vote to approve or refuse an application contrary to officers' recommendation members will indicate reasons for refusal and or conditions.

Insufficient Information

Any applicant who fails to provide sufficient information with their application will be advised of the information outstanding and given a minimum four-week period to supply the required information to the planning department. At the expiry of this period, a reminder will be sent giving a further two-week deadline for the submission of the information. If at the expiry of this period, the information has not been submitted, the application will be refused for lack of information. In such cases applications will be delegated to HOP and Principal Officers to refuse for insufficient information and may include relevant policy reasons for refusal which have not been demonstrated by the applicant at this stage.

Major applications requiring substantial documents, for example, EIA, TIA, RIA etc, will be given reasonable timeframes in advance of this protocol being actioned.

7. Site Visits

It is recognised that, on exceptional occasions, members of the Planning Committee may need to visit a site to help them make a decision on a planning application. For example, the proposal may be difficult to visualize or the application is particularly contentious.

Site visits should be an exception as they are time-consuming and expensive. Written requests should be made by the Planning Committee members, and submitted 2 days in advance of Committee and the Chair and planning officials shall discuss at the pre-meeting prior to the Planning Committee meeting at which the application is scheduled to be determined. Site visits will only be carried out where there are clear benefits. Where possible, best endeavours must be made to advise all parties wishing to participate in Committee regarding a particular application, of the request.

The Planning Committee Clerk should contact the applicant/agent to arrange access to the site. Invitations will be limited to members of the Planning Committee and Council Planning Officers and will be arranged on set dates sequenced with the Planning Committee. Site visits are not an opportunity to lobby councillors or be used to seek to influence the outcome of a proposal prior to the Planning Committee meeting. There shall be no public speaking on site visits.

Councillors should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land; they will not have the information provided by the planning officer and, in some circumstances, it might lead to allegations of bias.

Attendance at site visits is optional, but it is recommended that the full Planning Committee should attend site visits, unless there are exceptional reasons. The Clerk to the Planning Committee should record the date of the visit, attendees and any other relevant information.

The Planning Officer should prepare a written report on the site visit which should be presented to the Planning Committee meeting at which the application is to be determined.

8. Pre-Determination Hearings (PDH)

The Planning Committee has a mandatory requirement to hold Pre-Determination Hearings for those major applications which have been referred to the Department for call-in consideration, but have been returned to the Council for determination. The Council's Planning Committee will therefore have to hold a hearing prior to the application being determined. In addition, Council may also hold pre-determination hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support of the development.

The intention is to make the application process for major applications more inclusive and transparent by giving applicants and those who have submitted representations the opportunity to be heard by Council before it takes a decision.

It will be a matter for the Planning Committee to judge when a Pre-Determination Hearing is appropriate, taking account of the relevance of the objections in planning terms, the complexity of the application and level of pre-application community consultation.

When holding a Pre-Determination Hearing, the procedures (PDH Guidance Procedures) will be the same as the normal Planning Committee meetings. The Planning Officer will produce a report detailing the processing of the application to date and the planning

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issues to be considered. The number of individuals to speak on either side, time available, etc. will be agreed prior to the hearing. Non-attendance by Members at PDH means that Members cannot vote on the planning decision. Members at Planning Committee can participate, probe ask questions but not vote in the decision making process. It is not recommended that the PDH is held on the same day as the application is to be presented with a recommendation as the Decision making process will be separate.

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Application of the Councillors' Code of Conduct with regard to Planning matters

Declaration of Interests

You must

- declare any significant private or personal non-pecuniary interest (as set out in paragraph 6.3 of the code) and withdraw from the meeting when the matter is being discussed and voted on (unless the conditions for obtaining a dispensation as set out in paragraphs

6.5 – 6.9 of the Code apply or are met).

Date of Committee Meeting: _____

Please record your reasons for declaring an interest as follows:

1. non-pecuniary
2. pecuniary
3. personal
4. personal and prejudicial
5. prejudicial

Application Ref No	Reason				
	1	2	3	4	5

Print Name: _____ Signature _____