

## **Part 5.2 Code of Conduct for Councillors and Officers in relation to Planning and Licensing matters**

Councillors can involve themselves in discussions with developers, applicants, their constituents and others about planning and licensing matters. However, difficulties can be avoided if you follow these useful general rules:

### **Do**

- Inform officers about any approaches made to you and seek advice
- Familiarise yourself with the Councillors Code of Conduct and follow it when you are representing the authority
- Keep your register of interests up to date
- Be aware of what predisposition, predetermination and bias mean in your role
- Preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding
- Be aware of what Disclosable Pecuniary Interests (DPIs) and prejudicial interests are
- Recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role
- Stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- Use meetings to show leadership and vision
- Encourage positive outcomes
- Recognise that you can lobby and campaign but that this may remove you from the decision making process
- Feed in both your own and your local community's concerns and issues
- Be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

### **Do not**

- Use your position improperly for personal gain or to advantage your friends or close associates
- Meet developers/applicants alone or put yourself in a position where you appear to favour a person, company or group – even a 'friendly' private discussion with a developer/applicant could cause others to mistrust your impartiality
- Attend meetings or be involved in decision-making where you have a prejudicial interest under the Councillors Code of Conduct – except when speaking when the general public are also allowed to do so
- Accept gifts or hospitality
- Prejudge or be seen to prejudge an issue if you want to be a decision maker on a proposal
- Seek to influence officers or put pressure on them to support a particular course of action in relation to an application
- Compromise the impartiality of people who work for the authority

## 1. **INTRODUCTION**

- 1.1 This Code has been written to advise all those concerned with planning and licensing matters of Slough Borough Council in its operation of the town and country planning and licensing systems within the Borough. The Code applies to all Councillors and Officers involved in these council functions.

**Within this code the following terms are defined as follows:**

<b>Councillor</b>	<b>All members of the authority</b>
<b>Committee Member</b>	<b>Member of the Licensing Committee/Sub Committee or Planning Committee</b>
<b>Local Member</b>	<b>Local Ward Councillor for the application in question</b>

### **Planning**

- 1.2 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private interest of individuals, landowners, and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions) and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.
- 1.3 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of land holdings and the quality of their settings. It is important, therefore, that the Council should make planning decisions affecting these interests openly, impartially, with sound judgement, and for justifiable reasons. The process should leave no grounds for suggesting with any justification, that a decision has been partial, biased, or not well-founded.
- 1.4 Thus the successful operation of the planning system in Slough depends upon the Council always acting in a way which is clearly seen to be fair and impartial. This requires a shared understanding of the respective roles of Councillors and Officers and trust between these parties. The following quotation from the Local Government Association serves to illustrate the point:-

*“The role of an elected member on a planning committee involves a balance between representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals. It is this dual role which, as the Nolan Committee in its recent report acknowledges, can give rise to great tensions”.*

*(Source: Probity in Planning 1997).*

## **Licensing**

- 1.5 The Licensing Committee and its sub-committees deal with a wide range of licensing matters. These include the increased responsibilities of licensing both persons and premises with regard to the carrying out of licensable activities including the sale and supply of alcohol; provision of regulated entertainment; and the provision of late night refreshment, by virtue of the Licensing Act 2003.
- 1.6 Many of the licensing and enforcement functions entail Committee Members and officers acting in a quasi-judicial capacity. In doing so they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights. It is important that the process is characterized by open and transparent decision-making.
- 1.7 The role of an elected member on the Licensing Committee and its Sub-Committees will involve making informed judgements. For example balancing the multiple needs and interests of the local community whilst prioritizing the Licensing Objectives of the Licensing Act 2003 or balancing the private interests of individuals applying for licences as Private Hire Vehicle Drivers with public safety considerations. In carrying out this role the elected member must maintain his/her impartiality and as public perception of probity is critical, his/her appearance of impartiality too, during the decision making process. Decisions should be made openly, impartially with sound judgment and for justifiable reasons. The process should leave no grounds for suggesting, with any justification, that a decision has been partial, biased or not well founded.

## **2. GENERAL PRINCIPLES**

- 2.1 Councillors are required to comply with the statutory provisions on the disclosure of interests, the Councillors Code of Conduct, this Council's Procedure Rules and its Scheme of Delegation.
- 2.2 Officers involved in the processing and determination of planning and/or licensing matters must also act in accordance with the Council's Procedure Rules, Scheme of Delegation, the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct, any other relevant professional or adopted Council Employee Code of Conduct as appropriate.
- 2.3 With regard to Planning this Code deals primarily with planning applications, but also to consideration of Development Plan Documents, Development Briefs, enforcement cases and all other planning matters. An *overriding* principle is that when local authorities are dealing with planning matters, they should only take into account material planning considerations and ignore irrelevant matters (**Appendix A**).
- 2.4 With regard to Licensing this Code deals with all Licensing matters including the duties introduced by the Licensing Act 2003 (regarding licensable activities including the sale and supply of alcohol; provision of regulated entertainment; and the provision of late night refreshment) which require

determination having taken into account the Licensing objectives contained within the Licensing Act 2003 and the Council's Statement of Licensing Policy.

- 2.5 This Code is supplemental to the provisions referred to above and provides further specific advice and guidance for Councillors and Officers involved in planning and licensing matters. A key principle is that Councillors should represent their constituents as a body and vote in the interests of the Borough as a whole. Councillors should take account of all views expressed, they should not be biased or appear to be partial towards any person, company, group or locality.

### **3. GENERAL ROLES OF COUNCILLORS MEMBERS AND OFFICERS**

- 3.1 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. A successful relationship between Councillors and Officers can only be based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.
- 3.2 Councillors set the Council's planning and licensing policies and must determine applications, enforcement issues and other planning and licensing matters within the context of those policies. When Committee Members come to make a decision, they must:-
- (a) Act fairly and openly
  - (b) Approach each application with an open mind.
  - (c) Carefully weigh up all relevant issues.
  - (d) Determine each application on its own merits.
  - (e) Avoid contacts with interested parties which might be taken to indicate that they were unduly influenced by one party or another.
  - (f) Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.
- 3.3 The Officers' function is to advise and assist Committee Members in matters of policy and in their determination of planning and licensing applications, enforcement issues and any other matters by:-
- (a) Providing impartial and professional advice.
  - (b) Making sure that all the information necessary for the decision to be made is given.
  - (c) Providing a clear and accurate analysis of the issues.
  - (d) Setting planning applications, enforcement issues and other planning matters against the broader Development Plan policies and all other material considerations.

- (e) Setting licensing applications, enforcement issues and other licensing matters against the Licensing Objectives, the Council's Licensing Policy and all other material considerations.
  - (f) Giving a clear recommendation.
  - (g) Carrying out the decisions of Committee Members in Committee.
- 3.4 Councillors who also serve on Parish Councils may need to clarify their separate roles in each Council regarding Slough Borough Council planning policies. The public and other interested parties should be clear at all times when the Councillors are acting as a Parish Councillor and when they are acting in their role as a Borough Councillor.
- 3.5 Committee Members who carry out functions in another public authority or another local authority (e.g. parish council or health authority) which is making an application for a license or planning permission or which is making a representation should make a disclosure of his/her position in advance of the Committee/Sub Committee meeting and the Chair of the Committee will consult with the Committee's legal advisor to decide if the Member can take part in the decision-making. If it is decided that a Member can be part of the Licensing Sub-Committee then it is important that it is made very clear that any decision taken has been made on the basis of the Licensing Objectives and the Council's Licensing Policy Statement and that the Member concerned is coming to the hearing with an open-mind.
- 3.6 When the Licensing Sub-Committee is considering an application from the Council for a licence, a Councillor who took part in the Council meeting, which approved the policy statement, or the Licensing Committee, which recommended it, would not normally be excluded from the Licensing Sub-Committee. However, there may be an exception if the Member involved could reasonably be seen as having been leading or particular advocate for or against the proposal to such an extent that there were doubts that the Member had retained a genuinely open-mind.

#### **4. DECLARATIONS OF INTEREST**

- 4.1 Councillors should observe strictly the guidance on the disclosure of interests as set out in the Councillors Code of Conduct adopted by the Council in June 2012 (as updated). A Councillor with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.
- 4.2 Councillors who have substantial property interests, or other interests which would prevent them from voting on a regular basis should avoid serving on the Planning Committee, the Licensing Committee or Sub-Committee.
- 4.3 Gifts and hospitality give rise to particular problems in respect of the credibility of the planning and licensing process and the acceptance of gifts or hospitality

by Councillors or Officers can be a very serious criminal offence. Committee members should have particular regard to the provisions of the Councillors Code of Conduct and must immediately report to the Monitoring Officer any offer of gifts or hospitality. Also, they should avoid any behaviour which might be taken as indicating that they are open to such offers. Officers should strictly comply with the Council's adopted Employee Code of Conduct.

- 4.4 Officers must seek permission from the appropriate senior officer for any private work or interest which they wish to take up as required by the Council's Rules.

## **5. PRE-APPLICATION DISCUSSIONS**

### **Planning**

- 5.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties, and is regarded as best practice. Discussions can take place for a variety of reasons, for example: to establish whether an application can be improved in design, to overcome planning objections, meet relevant neighbour concerns or concerns on matters relating to owner and disorder or noise or the presence of children.
- 5.2 It should always be made clear at the outset that pre-application discussions will not bind the Council to making a particular decision and that any views expressed are provisional, until all relevant information is submitted and consultations on it have taken place.
- 5.3 Officers will ensure that their advice is neither partial, nor seen to be and is in line with Council policy. This is because a consequent report could be seen as advocacy for a particular point of view. A written attendance note should be made of pre-application discussions, and important telephone conversations and placed on the relevant file. Ward Members will be supplied with a copy of formal pre-application advice given by planning officers on prospective major planning applications except where there is a justified request for confidentiality by the potential applicant.
- 5.4 Committee members are encouraged to participate in pre-application submissions through the 'Developer's briefings to Planning Committee Protocol' in order to gain more information about proposed developments likely to be presented to the Planning Committee. This pre-application process gives members the opportunity to make applicants aware of specific concerns and for the applicant to respond in a proactive manner, before the application is submitted and without undermining the ability of the members to participate in the decision making process. If there are other occasions when Committee members are involved, they must be accompanied and advised by professional officers of the Council including a Senior Planning/Licensing Officer. The involvement of Committee members in such discussions will be noted by Officers in a written attendance note which must be placed on the relevant file.

- 5.5 For the avoidance of doubt, Committee Members are prohibited from negotiating with the applicant.

Fees may be charged for pre-application advice – applicable fees can be viewed on the Council's website at [www.slough.gov.uk](http://www.slough.gov.uk)

## **6. ATTENDANCE AT PUBLIC MEETINGS**

- 6.1 Officers who are wholly or partly involved in the processing or determination of planning/licensing matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications, unless their attendance has been agreed by the Planning Manager. To do so could lead to allegations of prejudice or bias to a particular point of view. If such attendance has been authorised, Officers should only provide information and give no view on the merits or otherwise of the proposal.
- 6.2 When attending public meetings, Committee members must be accompanied by a Senior Planning / Licensing Officer and they should take great care to maintain their impartial role as a Councillor, listen to all the points of view expressed by the speakers and the public and not state a conclusive decision on any pre-application proposals and submitted applications.

## **7. RESPONSE TO LOBBYING OF COUNCILLORS**

- 7.1 It is a fact of life that when Councillors undertake their ward roles they will be approached by prospective and actual applicants (and agents) or members of the public with a view to them lending support to the proposal, or indeed opposing it. When Committee Members are lobbied they need to exercise great care to maintain the Council's reputation and the Member's own integrity and the public perception of the planning and licensing process.
- 7.2 If they are approached, Committee Members should use all reasonable endeavours to refer the person to another Member who is not a Member of the Planning or Licensing Committee. If, however, the lobbying persists then Committee Members should expressly state that whilst they can listen to what is said, they cannot give any commitment (for or against) in respect of the application/proposal for to do so without all relevant information, evidence and views would be unfair, prejudicial and may amount to maladministration. If a Member who sits on the Licensing Sub-Committee wishes to represent the person then he/she will need to excuse him/herself from the Licensing Sub-Committee and address the Sub-Committee as a local member.
- 7.3 If a Committee Member considers that an ordinary member of the public believes that s/he held a conclusive view in respect of an application or other matter before the relevant meeting then s/he should advise the Monitoring Officer in writing prior to the meeting, and not take part in the debate or vote on the issue.
- 7.4 If approached by a constituent, who is not professionally represented, a Committee member should only give advice on planning or licensing

procedure, rules and policy. If approached by a constituent who is represented, or a non-constituent, or a professional agent, a Committee member should refer the person making the approach to the Planning Manager / Planning Case Officer or Licensing officer as appropriate.

- 7.5 Other than for formal site visits, Committee members should not enter premises or sites (if the visit is in relation to the application) which are, or are likely to be, the subject of a licensing application, planning application or forms part of a Development Plan proposal.
- 7.6 Committee Members should not organise support, opposition or put undue pressure on other Councillors or Officers for a particular decision/recommendation.
- 7.7 A decision in respect of any planning or licensing matter or application can only be taken at the relevant Committee when all relevant information is to hand and has been carefully considered. Individual Committee Members should reach their own conclusions at the meeting rather than be influenced by others. In this regard, any political group meetings prior to Committee meetings should not be used to decide how Committee Members should vote.

## **8. THE PARTY WHIP**

- 8.1 Committee Members cannot accept an instruction from anyone to determine an application in a particular manner, but must determine the issue on its merits. Accordingly, whilst they may accord appropriate weight to the views of other Committee Members, whether expressed in the Committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any factor which they are not prepared to state in open Committee. Therefore, it is inappropriate for any Party Group to instruct its Committee Members to vote in a particular manner on an application or to apply or threaten to apply any sanction to any Member who votes contrary to the Group's collective views.
- 8.2 Where such a "Whip" has been applied, Committee Members should declare it in exactly the same manner as they would declare any other attempt at lobbying.

## **9. PUBLIC PARTICIPATION SCHEME FOR PLANNING**

- 9.1 Applications for planning permission are determined by either Officers acting under the Council's Scheme of Delegation or by Members who form the Planning Committee. Each application is subject to a public consultation/notification exercise which includes local residents and other bodies inviting comment in writing on the application before it is determined.
- 9.2 The following will be allowed to address the Planning Committee before Committee Members take their decision:-
- (a) Objectors (subject to para 4 of the explanatory leaflet set out in Appendix B)

- (b) Parish Council representatives
- (c) The applicant (or his agent)
- (d) Ward Councillors or other appropriate elected representatives raising material planning issues on behalf of those they represent.

9.3 The Public Participation Scheme will only apply to applications which are to be determined by the Planning Committee. They do not apply to any matter where the Planning Committee is considering enforcement of any kind. Applications to be determined under Officer Delegated Authority are not subject to the requirements of this code.

9.4 The Public Participation Scheme will operate in accordance with the explanatory leaflet attached as **Appendix B** to this Code of Conduct.

## **10. ELECTED MEMBERS AS INTERESTED PARTIES UNDER THE LICENSING ACT**

10.1 All elected councillors are “interested parties” under the Licensing Act 2003 and can make representations in their own right in response to premises licence and club premises certificate applications.

10.2 Councillors either need to be 'interested parties' in their own right or need to be asked by an 'interested party', specifically, to represent them.

10.3 Only “relevant representations” can be considered by the licensing authority. Representations that are made about the general problems in an area or the fact that there are “too many” licensed premises in an area, for example, **are not** relevant representations. Representations should address the effect of the application on one or more of the licensing objectives, i.e.–

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

10.4 Given the quasi-judicial nature of the proceedings, all representations or reviews:

- must be in writing, showing the name and address of the person seeking to make the representation (the representation/review application must be published as part of the process) – there is a prescribed form for reviews on the Licensing Act web pages on the SBC web site;
- must clearly set out the likely effects the grant of the licence would have on the promotion of at least one of the licensing objectives;
- must present evidence which is relevant in support of the representation or review; and
- must clearly relate to the premises for which an application is being made.

10.5 Councillors can make representations or apply for a review in respect of any premises within any ward in the licensing authority’s area.

- 10.6 Members of the Licensing Committee can make representations or request a review and in addition to this also address the Licensing Sub-Committee as an interested party. However, a Councillor cannot sit as a member of the Sub-Committee when it considers the application that they are involved in.

**Elected Member representing another interested party**

- 10.7 Councillors are able to represent another interested party (or parties) who has made a representation. In this scenario the Councillor does not need to have made a representation in his/her own right, but must ensure that he/she demonstrate to the licensing authority that they have been requested to represent the interested party or parties in question.

**11. REPORTS BY OFFICERS**

- 11.1 Reports to the Planning Committee on applications and other planning matters must be clear and accurate and comprise:-
- (a) a description of the site/summary of the application
  - (b) any related planning history
  - (c) full details of any relevant policies of the Development Plan and other material considerations.
  - (d) a technical appraisal of which clearly justifies the written recommendation.
  - (e) a written recommendation setting out clear and unambiguous reasons for:
    - (i) granting planning permission (with conditions to be attached); or
    - (ii) refusal.

Officer reports should be proportionate to the planning issues. It will be acceptable for reports to summarise analysis when there is compliance with policies and concentrate analysis on issues where there is conflict or some variance with policies. The content of reports is the responsibility of the Planning Manager.

- 11.2 Officers may supply written information at the Planning Committee to take account of additional relevant matters that arise between the publication of the agenda and the date of the meeting. Plans of the proposed development will be available for inspection at Committee. The Chair, at the request of any Member of the Committee, shall adjourn the meeting for a reasonable period of time to enable the Committee Members to have an opportunity of reading any information which has been tabled by the officers at the meeting.
- 11.3 As a general rule the Members of the Committee will not take into account any written information at the meeting which has not been submitted by the developer/applicant or any consultees (including local residents) as part of the application process. However in exceptional circumstances the chair, in consultation with the officers present, may exercise his/her discretion to consider new information if it is appropriate to do so.

- 11.4 Reports to the Licensing Committee on applications and other licensing matters must be clear and accurate and comprise:-
- (a) full summary of the application
  - (b) summary of the representations made
  - (c) summary of how the Licensing Officer views the provisions of the Licensing Policy, Guidance of the Secretary of State and the relevant legislation as relating to the application.
  - (d) any relevant representations.
  - (e) a site location plan
  - (f) a written recommendation setting out clear and unambiguous reasons for:
    - (i) granting the license or
    - (ii) refusal.
- 11.5 The relevant Planning/Licensing Officer must be available at the Licensing Committee to answer any questions or clarify any queries raised by Committee Members.

## **12. THE DECISION MAKING PROCESS**

### **Planning**

- 12.1 In determining applications submitted pursuant to the Town and Country Planning Act 1990, and other planning or planning related legislation, the Council will follow the Guidelines adopted as part of this Planning Code. These adopted Guidelines will be subject to changes from time to time to reflect the latest government guidance and case law (Appendix A).
- 12.2 Committee Members should not take part or vote on any application or matter if they have not read the committee report and have not been present throughout the consideration of such application or matter unless the item has been deferred from a previous meeting after being partially considered.
- 12.3 In discussing and determining a planning application enforcement issue or other planning matter, Committee Members should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits. The Planning Committee's decisions should be properly minuted.
- 12.4 From time to time Members of the Planning Committee will disagree with the professional advice given by the Planning Manager or his/her representative. As indicated in paragraph 1.2 above planning is not an exact science and there can be genuine disagreement about the implications of a particular proposal. A senior legal officer will be present at Committee and will be able

to advise if the facts simply cannot support the conclusion which the Committee Members have drawn and the Committee is in danger of acting unreasonably.

- 12.5 Where Committee members wish to add or amend conditions or reasons for refusal, the general content will be agreed at the meeting before the vote is taken and the final wording will generally be delegated to the Planning Manager. Where an appeal arises against such a decision, Officers will give support to the relevant Committee Members in preparing evidence for the appeal, but it will be for Members of the Planning Committee to appear at any appeal inquiry/hearing and give evidence to justify the reasons for the Committee's decision.
- 12.6 If the officer report recommends approval of a departure from the Development Plan, the justification for this recommended departure should be included in the report.

### **Licensing**

- 12.7 In determining applications submitted pursuant to the Licensing Act 2003 the Council will follow Licensing Objective contained in the Licensing Act 2003, the Council's Licensing Policy, Government Guidance and Regulations.
- 12.8 In discussing and determining a licensing application, enforcement issue or other licensing matter, Committee Members should confine themselves to the licensing merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the licensing merits. Reasons for decision must be clearly documented so that any subsequent accusation of bias etc. can be defended. It is critical that it is clear that decisions are made according to the Licensing Objectives of the Licensing Act 2003 as well as the Council's Licensing Policy Statement. The Licensing Committee's decisions should be properly minuted.
- 12.9 Committee Members should not take part or vote on any application or matter if they have not read the committee report and have not been present throughout the consideration of such application or matter unless the item has been deferred from a previous meeting after being partially considered.

### **13. APPLICATIONS OR PROPOSALS OF COUNCILLORS, OFFICERS AND THE COUNCIL**

- 13.1 Councillors and Officers should never act as agents for individuals (including a company, group or body) pursuing an application, enforcement issue or other planning or licensing matter. If Councillors or Officers submit their own development proposal or licensing application to the Council, they should take no part in its processing or the decision-making. The Council's Monitoring Officer should be informed by the Councillor or Officers of all such proposals as soon as they are submitted and shall ensure that such applications and/or matters are dealt with in a correct and open manner.

13.2 Applications made on behalf of the Council for its own development must be determined in an identical manner to applications made by the general public and the same planning policy considerations applied. The Council's current practices and procedures achieve this with identical consultation and publicity in relation to the application. Decisions must be made strictly on planning/licensing merits and without regard to any financial or other gain which may accrue to the Council if the development license is permitted. Applications for development by the Council are considered by the Planning Committee for decision or in accordance with the Council's Scheme of Delegation. This scheme gives clear guidelines on when planning applications will be determined under delegated powers. All applications for licences by the Council are considered by the Licensing Committee for decision irrespective of whether or not representations are made.

#### **14. SITE VISITS**

##### **General**

14.1 Site visits are:-

- (a) fact finding exercises
- (b) not part of the formal consideration of the application and therefore public rights of attendance do not apply
- (c) to enable Officers and the Applicant to point out relevant features
- (d) to enable questions to be asked on site for clarification. However, discussion on the application will only take place at the subsequent Committee as all relevant parties may not be in attendance on site.

14.2 At the site visit Committee Members shall be accompanied by a Planning/Licensing Officer who will record what takes place at the inspection. Committee Members may ask questions of the Officers and the applicant/agent. However, representations on the merits of the application will not be heard.

14.3 The site visit shall take place during normal working hours as far as is practicable unless there are exceptional reasons which dictate otherwise (which should be minuted).

14.4 The Planning Officer who attended the site visit will prepare notes for the Planning Committee on the planning issues and any relevant information obtained by Committee Members and a recommendation on how the application should be determined.

14.5 The Officer attending the site visit will ensure that all correspondence in relation to site visits clearly identifies the purpose of the site inspection, the format and conduct of the inspection and the appropriate procedure for the applicants, agent and interested parties to address Committee Members.

## **Planning**

- 14.6 A site visit is private and its purpose is for Committee Members to gain knowledge of the development proposal and to observe the characteristics of the site and its relationship to its surroundings. A site visit may be called by
- Any two Members of the Planning Committee;
  - A Ward member, if the application has been referred to Committee by the Planning Manager on the request of the Ward Member.
- 14.7 Requests for site visits will be made directly to Democratic Services, with an outline of the main reasons as to why a site visit should take place and must be submitted ten working days before the meeting at which the application is to be considered.
- 14.8 All Members of the Planning Committee will be invited to the site visit and all ward members will also be advised of the visit and invited to attend.

## **Licensing**

- 14.9 Site visits by Licensing Sub-Committee members shall only be undertaken where objective decisions cannot be taken without viewing the site and adjoining properties and the reasons should be clearly minuted. If a site visit is agreed a Viewing Panel shall be properly constituted where at least two Sub Committee members attend the site accompanied by the licensing officer who will record what takes place at the inspection.

## **15. PLANNING AGREEMENTS**

- 15.1 When applications which propose or require planning obligations by agreement are referred to the Planning Committee the heads of agreement will be included in the Officers' written report, and a copy of the agreement, when made, will be publicly available, provided (following the advice of a Council Solicitor) it is not considered to prejudice clearly established interests of commercial confidentiality.

## **16. TRAINING**

- 16.1 No Councillor should be appointed to the Planning Committee or Licensing Committee without having agreed to participate in educational training programmes directed towards the role of Councillors in making decisions.
- 16.2 The Council will, from time to time, consider and review the form of education and training that is most appropriate.
- 16.3 Training sessions for Planning Committee by the Council's Solicitors and Planning Officers will cover the following topics:-
- The Role of the Government in Planning
  - The Development Plan and Material Considerations
  - Section 106 Planning Obligations/Planning Conditions

- Enforcement of Planning Control
- Permitted Development
- Planning Procedures

16.4 Training for Licensing Committee will cover all aspects of the Council's Licensing functions.

16.5 This training will be open to all Councillors and brief handouts will be provided where appropriate. The Council welcomes suggestions from Councillors on any other subjects which they would like to see covered and any other training procedures that they would wish to adopt.

## **17. COMPLAINTS & RECORD KEEPING**

17.1 In order that planning and licensing procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application and licensing application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Councillors.

17.2 The same principles of good record keeping will be observed in relation to all planning, enforcement and licensing matters. Monitoring of record keeping may be undertaken by the appropriate managers.

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## **COUNCIL GUIDELINES FOR DETERMINING PLANNING APPLICATIONS**

### **1. APPLICATIONS UNDER THE TOWN & COUNTRY PLANNING ACT 1990 (TCPA)**

- (i) The emphasis in determining applications is upon a plan led system. Section 54A of the Town and Country Planning Act 1990 requires all planning applications to be determined by reference to the Development Plan if material to the application, and any other material considerations. If the Development Plan is material to the application then the statutory position is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- (ii) The term “other material considerations” has a wide connotation as expressed by the following judicial comment:-

“.....I find it impossible, however, to accept the view that such considerations are limited to matters relating to amenity.....it seems to me that any consideration which relates to the use and development of land is capable of being a planning consideration”.
- (iii) Material considerations include national planning guidance in the form of Government Circulars, Planning Policy Statements, Non-Statutory Development Control Guidelines and case law. A ministerial statement may be a material consideration.
- (iv) Examples of material considerations are:-
  - (a) appearance and character of development;
  - (b) traffic generation, highway safety and parking;
  - (c) Overshadowing, overlooking and loss of privacy;
  - (d) noise, disturbance or other loss of amenities;
  - (e) layout and density of buildings;
  - (f) relevant planning policies.
- (v) Matters which are not material considerations include:-
  - (a) boundary disputes, covenants or other property rights;
  - (b) personal remarks (e.g. the applicant’s motives);
  - (c) reduction in property values;
  - (d) loss of private view over the land.
- (vi) The personal circumstances of an applicant for planning permission are not generally a material consideration because they do not relate to the character or use of the land. However, in exceptional circumstances they may outweigh other material planning considerations. Where this is the case, specific and valid reasons must be given to justify the exception.
- (vii) What constitutes a material consideration is a matter of law. The weight to be attached to the consideration is a matter of planning judgement for the decision-maker having regard to the planning evidence. In attaching

weight to any offers of community benefit accompanying any planning application, Members must be mindful of the advice in the Planning Practice Guidance: Planning Obligations as to the legality and materiality of such offers.

- (viii) It is essential to consider thoroughly any advice given by a statutory consultee or relevant Government Department, including views expressed by Historic England or the Environment Agency.
- (ix) The view of local residents are relevant when determining a planning application, but it must be recognised that such opposition cannot be a reason in itself for refusing or granting planning permission unless founded on valid planning reasons, which are supported by substantial evidence ((Planning Practice Guidance)).
- (x) Account should be taken of previous Council decisions, appeal decisions in relation to the site, or other related appeal decisions.
- (xi) It is not permissible to prevent, inhibit or delay development which could reasonably be permitted.
- (xii) Planning Conditions should only be imposed for a planning purpose and not for any ulterior one. They must fairly and reasonably relate to the development. Thus it is essential to avoid conditions which are unnecessary, unreasonable, unenforceable, imprecise or irrelevant.

2. **APPLICATIONS UNDER THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (PLBCA)**

- (i) It is now established that the determination of planning applications and applications for PLBCA are two separate statutory duties. The provisions of the TCPA do not override those of the PLBCA.
- (ii) The Development Plan contains policies that deal with development in Conservation Areas and applications for Listed Building Consent under the PLBCA to enable the local authority to consider the desirability of preserving the building or its setting or any feature of special historic interest or the Conservation Area.
- (iii) Members will also have regard to the replies of statutory consultees, e.g. Historic England and amenity societies.
- (iv) Planning Practice Guidance and the Historic Environment Records will be relied upon.
- (v) Any other material consideration, e.g. appeals decisions and relevant case law.

**PUBLIC PARTICIPATION SCHEME**

**SLOUGH BOROUGH COUNCIL**

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**What happens about my  
Objection to a  
Planning Application?**

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**This information explains how your objection is dealt with and how the application is determined. Your views on planning applications are always considered when planning decisions are made**

## **1. I have objected. What happens next?**

### 1.1 Planning officers will consider whether:

- the application should be recommended for approval as it stands
- it should be amended to resolve your objection, or
- it should be refused

1.2 Your written objection may be made by email or by letter. Your written objection will not normally be replied to or acknowledged. If the application is to be referred to the Planning Committee you will be notified when the Agenda is prepared to give you the opportunity to register if you wish to speak on your objection. The deadline for receipt of requests to speak at a Planning Committee shall be no later than three clear working days prior to the day of the meeting. If exceptionally an application is taken to Planning Committee as a late urgent item you will be informed. If there is not three working days for the submission of your request discretion may be exercised to relax the procedure.

1.3 If you have submitted a petition in response to a planning application your petition will be noted for the purposes of the Public Participation Scheme and, in the event that the application is to be determined by the Planning Committee, the petition organiser/main contact will be advised of their right to speak at the meeting.

[Note: The submission of a petition does not mean that the planning application will automatically be referred to the Planning Committee.]

## **2. Who Makes the Decision?**

Most planning applications are dealt with at officer level under a Scheme of Delegation. In this circumstance the application will not be reported to the Planning committee for determination. In certain circumstances, as set out in the Scheme of Delegation, the application will be determined by the Planning Committee. Any comments received will be summarised in a report when the application is presented.

## **3. Can I see the officer's report before the Planning Committee Meeting?**

Yes. The agenda and reports will be available five working days before the meeting. An additional paper (The Amendment Sheet), containing information received after the reports have been written and prior to the meeting, will be circulated at the meeting.

## **4. Can I speak at the Planning Committee Meeting?**

Slough Borough Council has a public participation scheme that allows for speaking about a planning application that is to be determined by the Planning Committee. You may speak if:-

- (a) you have made a written objection or lodged a petition and
- (b) registered to speak.

## **5. Can a member of the public speak about any application on the Agenda?**

No. Members of the public can only speak if they have objected in writing to an application and registered to speak, in line with the Public Participation Scheme.

## **6. How much time will be allowed for speakers?**

A total of four minutes per site/application will be allocated to hear the views of all objectors, four minutes for Parish Councils and four minutes for the applicant/agent. The Chair of the Planning Committee can in exceptional circumstances extend the time limit for all parties and his decision will be final.

## **7. What happens if there are a number of objectors wishing to speak?**

- 7.1 The time limit remains the same and objectors will be encouraged to present a joint objection or appoint a spokesperson, as this is often the most effective use of the time available. In order to agree the best approach, objectors may contact the Planning Committee Clerk for details of others wishing to speak. The telephone and fax numbers and the e-mail address can be found in the Notice of Objection form which accompanies this leaflet. In some cases the Parish Council or a Residents' Association may be willing to represent objectors.
- 7.2 The Council needs to strike a balance between providing the opportunity for people to be heard and ensuring that the applications are dealt with efficiently, within a meeting of reasonable length. This is why there is a time limit on speakers.

## **8. Can someone else speak on my behalf?**

Yes. You could ask a friend, relative or professional adviser to speak for you.

## **9. How do I present my objection?**

The Committee may only consider relevant planning issues. Please limit your comments to matters such as:-

appearance and character of development  
traffic generation, highway safety and parking  
overshadowing, overlooking and loss of privacy  
noise, disturbance and other loss of amenities  
layout and density of buildings  
relevant planning policies

Please avoid matters that cannot be considered by the Committee such as:-

boundary disputes, covenants or other property rights  
personal remarks (e.g. the applicant's motives)  
reduction in property values  
loss of private view over the land

If you would like to check what issues are relevant, please contact the appropriate planning officer in the Customer and Communities Department. Advice is given free of charge at present but is subject to review.

You may be asked to pay a fee for specific advice from a Planning Officer in accordance with any charging scheme the Council may introduce.

If you have any questions or documentary evidence e.g. letters, maps, photographs etc in support of your objection they must normally be submitted to the appropriate planning officer at least 72 hours before the meeting. This will allow any such documents to be

verified and to be given proper consideration by the Committee. Documents or questions submitted outside this deadline can only be considered in exceptional circumstances and with the approval of the Chair.

**10. When and where are the meetings held?**

Applications are dealt with by the Planning Committee, which meets at 6.30 p.m. You will be advised by letter or e mail of the date of the meeting if the application you have objected to is to be considered by the Committee and the location of the meeting.

**11. Who is on the Committee and who else will be there?**

The Committee is made up of elected Councillors. Council Officers attend to advise the Committee and make a formal record of the meeting. Other Councillors may be present to speak on applications within their Ward, but they cannot vote. Any member of the public or applicant may attend to listen to the debate and the Media is usually present.

**12. What is the order of business at the meeting?**

The Chair of the Planning Committee will normally amend the order of business on the Agenda and deal firstly with those applications where people have expressed a wish to speak under this Scheme.

**13. What is the order of speaking for each application?**

The Chair will announce the application.

A planning officer will give a short introduction.

The Chair will invite objectors to speak

The Chair will invite the applicant or agent to speak

The Chair will invite the Ward Councillor(s) to speak

The Chair will invite the Parish Council representative to speak.

Committee members may ask questions of the speakers and seek clarification of particular points from officers.

The Committee will then discuss the application and make a decision. This may be to:-

1. approve the application
2. refuse the application
3. delegate the application to the Planning Manager for final determination
4. defer consideration e.g. for further information or amendments, or
5. defer consideration for a site visit by a panel of Councillors.

**14. What happens if an application is deferred for a Site Visit?**

If, before the meeting, a councillor asks for a site viewing and the application is not discussed, you will be invited to speak at a subsequent meeting when the item will be considered. If, after hearing the objectors, the Committee decides to view a site, you will

not be invited to speak again. **You will be given only one opportunity to speak on an application.**

**15. Can Objectors speak at a Site Visit?**

No. The site visit is private and its purpose is to observe characteristics of a site and its relationship to the surroundings. Representations on the merits of the application will not be discussed.

**16. Can an application be approved by the Committee if it is recommended for refusal?**

Yes the Committee (i.e. the Members elected by the public) can disagree with the officer's recommendation.

**17. What happens after the decision is made?**

The applicant/agent will be sent the notice of decision. Objectors/supporters can view the decision on the Council's website. [www.slough.gov.uk](http://www.slough.gov.uk) or inspect the Planning Register at the Planning Office. Where an application has been refused, the applicant can appeal to the Planning Inspectorate. You will be advised of any such appeal, your original comments will be forwarded to the Inspectorate and you will be asked for any further comments. Where an application has been granted, there is no opportunity for objectors to appeal.

# SLOUGH BOROUGH COUNCIL

## PLANNING COMMITTEE: PUBLIC PARTICIPATION SCHEME

### OBJECTOR WISHING TO SPEAK- REGISTRATION FORM

Application No:	
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Location:	
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Proposal:	
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I confirm that I would like the opportunity to address the meeting as an objector **in the event** that the above mentioned application is referred to the Planning Committee for decision. (Please note that most planning applications are dealt with by an Officer under a scheme of delegation and these applications are not referred to the Planning Committee for decision).

#### OBJECTOR

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Please Note:	<b>SHARING OF INFORMATION</b> Where more than one Objector has registered to address the Committee his/her contact details (telephone number and email address) will be shared with all registered Objectors on request to enable the appointment of a spokesperson if necessary. <b>If you do not want your contact details to be disclosed then please complete the section below.</b>  I <b>do not</b> give my consent for my contact details to be disclosed to other registered Objectors.  Signed: .....
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#### Please return to:

Planning Committee Clerk  
Slough Borough Council  
Observatory House  
25 Windsor Road  
Slough  
SL1 2EL

or email: [joannah.ashton@slough.gov.uk](mailto:joannah.ashton@slough.gov.uk)

### **Rules, Procedures and Guidelines for Public Speaking at Planning Committee**

1. An objector, a representative of the Parish Council and the applicant may each speak on a planning application for a period not exceeding four minutes (per application). Circulation of any photographic or written material by speakers will not be permitted – any such information should be formally sent to the Planning Department for consideration well in advance of the meeting and preferably during the early planning application consultation stages where possible.
2. In the event of more than one objector wishing to speak, objectors may nominate one person to speak for all or the time may be shared. No cross-questioning will be allowed.
3. Speakers should restrict their comments to material planning considerations. A brief guide is given below.
4. Those wishing to speak should complete the registration form and submit this no later than 3 clear days prior to the committee meeting). Speakers should arrive no later than 6.15 pm on the evening of the committee meeting to allow the order of speakers to be confirmed and procedural arrangements to be clarified.
5. When the application comes forward for consideration at the Committee meeting the Planning Officer will introduce the report. The Chair will then call forward the public speakers: Objectors, Applicant, and Parish Councillors. Any Member of the Council who is not a member of the Planning Committee but who wishes to address the Committee will then be offered the opportunity to speak.
6. Public address is not an opportunity to engage officers or Councillors in dialogue. At the end of the period of public address, the Committee will debate and vote on the application. Members of the public, including any previous public speakers will not be able to address the Committee further.
7. The four-minute time limit will be strictly observed.
8. The decision of the Chairman will be final in terms of any questions of interpretation arising from these written procedures.
9. For the benefit of those wishing to speak, the following are typical material planning considerations:

The Committee may only consider relevant planning issues. Please limit your comments to matters such as:-

appearance and character of development  
traffic generation, highway safety and parking  
overshadowing, overlooking and loss of privacy  
noise, disturbance and other loss of amenities  
layout and density of buildings  
relevant planning policies

Please avoid matters that cannot be considered by the Committee such as:-

boundary disputes, covenants or other property rights  
personal remarks (e.g. the applicant's motives)  
reduction in property values  
loss of private view over the land

## Developer's briefings to Planning Committee Protocol

Early member engagement in the planning process is encouraged and supported by the NPPF. Enabling a developer to brief and seek the views of elected Members about planning proposals at an early stage (usually pre-application or where this is not possible, very early in the formal application period) is important in ensuring that new development is responsive to and reflects local interests/concerns where possible.

Slough Borough Council proposes to achieve this objective through formal presentations to the Planning Committee in accordance with procedures set out in this Protocol. No decision will be taken at these meetings and if the pre-application submission is followed by a formal planning application, the application will be subject to the normal procedure of a report to a future meeting of the Planning Committee.

1. The purpose of briefings is:

- To enable Members to provide feedback that supports the development of high quality development through the pre- application process, and avoid potential delays at later stages;
- To ensure Members are aware of significant applications prior to them being formally considered by the Planning Committee;
- To make subsequent Planning Committee consideration more informed and effective;
- To ensure issues are identified early in the application process, and improve the quality of applications; and
- To ensure Members are aware when applications raise issues of corporate or strategic importance.

2. What sort of presentations would be covered in the briefings?

Presentations on proposed large-scale developments of more than 50 dwellings, or 5,000m<sup>2</sup> of commercial or other floorspace or which includes significant social, community, health or education facilities, or where the Planning Manager considers early discussion of the issues would be useful; and

Presentations on other significant applications, such as those critical to the Council's regeneration programmes, significant Council developments, or those requested by the Chair of the Committee or deemed appropriate by the Planning Manager.

3. Frequency and timings of meetings

The presentation will coincide with the monthly Planning Committee meetings.

#### 4. Format of the presentations

- The meeting will be chaired by the Chair of the Planning Committee who will ask Members attending to disclose any relevant interests;
  - The Developer will supply all presentation materials including any models, and these will be displayed in the meeting room;
  - Officers to introduce the proposal (5 minutes);
  - The developer and/or agents will be invited to make a presentation (10 minutes);
  - Ward Members will have the opportunity to address the Committee (4 minutes each, subject to the discretion of the Chair);
  - Question and answer session: Members of the Planning Committee and Ward Members will be able to ask questions to the Developer and officers (15 minutes) Supplementary questions from Ward members to be at the discretion of the Chair);
- 
- A short note of the meeting summarising Members' comments would be made.

#### 5. Other matters

Members questions will be restricted to points of fact or clarification and must be structured in a way that would not lead to a member being perceived as taking a fixed position on the proposals. Members should ensure that they are not seen to pre-determine or close their mind to any such proposal as otherwise they may then be precluded from participating in determining the application.