

## Protocol for Development Control Matters and Development Control Committee Meetings

- 1 Purpose of Report
  - 1.1 The purpose of this report is for Council to approve the amendments to the Council Procedure Rules attached as Appendix 1, following the consideration of a protocol by the Development Control Committee on 17 May 2006 relating to Development Control matters and Development Control Committee meetings. (Attached at Appendix 2).
2. Recommendation
  - 2.1 To approve the amendments to the Council Procedure Rules attached as Appendix 1.
3. Links to the Corporate Business Plan
  - 3.1 The adoption of a protocol will assist in the way we interact with our customers, in accordance with the Customer Focus priority.
- 4 Background
  - 4.1 At its meeting on 20 January 2005, the Overview and Scrutiny Committee considered issues relating to the processing of planning applications and the planning enforcement service.
  - 4.2 Following consideration of these matters, the Overview and Scrutiny Committee made the following recommendations to the Executive:

“That the Planning Working Group should be reconvened to review the Development Control process, including Development Control meetings, late observations and the use of IT” (Minute 0112 refers).
  - 4.3 Following consideration of the issues by the Executive Committee at its meeting on 3 February 2005, members endorsed the recommendation of the Overview and Scrutiny Committee and resolved that:

“The recommendation of Overview and Scrutiny Committee with regard to the Development Control process be referred to the Development Control Committee for consideration.”
  - 4.4 At its meeting on 11 May 2005, the Development Control Committee approved the terms of reference for the Working Group and agreed that the recommendations of the Working Group shall be reported and endorsed by the Development Control Committee.
  - 4.5 The Development Control Working Group met in December to review the development control process and Committee meetings. Various issues were considered including the circulation of late observations, times allocated for public and Member speaking, format of the Development Control meetings, protocol for displaying plans and training.
  - 4.6 A protocol was considered by the Development Control Committee at its meeting on 17 May 2006, when Members endorsed the protocol for a trial

period of 6 months, subject to minor amendments. The proposed amendments to Council Procedure Rule 13 are as follows:-

- 1) Deleting the overall time limit allowed for the public forum.
  - 2) Allowing each Member 5 minutes to make representations on any one item.
- 4.7 The Development Control Committee had authority to resolve the protocol except is so far as the protocol required amendments to Council Procedure Rule 13 dealing with the Open Forum.
- 5 Changes to Council Procedure Rule 13 (Open Forum)
- 5.1 Whilst the total time allowed for representations remains at 6 minutes, the period allowed by any individual will be reduced from 3 minutes to 2 minutes. However, in future, the Parish/Town Council will be given the opportunity to address the Committee for 3 minutes and will not be part of the 6 minute rule as at present.
- 5.2 In proposing the changes the Development Control Committee acknowledged that in the past, the open forum was restricted to 30 minutes. However, this is an anomaly given that there is a 6 minute rule per application and it would be prejudicial to those wishing to speak at the end of the agenda if it were enforced. Members therefore resolved to delete the 30 minute rule.
6. Financial Implications
- 6.1 None arising directly from the report.
- 5 Environmental Implications
- 7.1 Reviewing the Development Control function of the Authority and establishing a protocol, ensures the delivery of a quality service, to ensure compliance with National and Local policies.
8. Community Implications
- 8.1 There will be direct community implications arising from this report, as the establishment of a protocol provides clarity for the public and potentially increases the number of people able to speak at Development Control Committees. It also recognises the role of the Town and Parish Council's in the Development Control process.

The Documents used in preparing this report:

- Committee Report and Minutes – Overview and Scrutiny Committee 20.01.2005
- Committee Report and Minutes – Executive Committee 03.02.2005
- Committee Report and Minutes – Executive Committee 10.02.2005
- Committee Report and Minutes – Council 22.02.2005
- Committee Report and Minutes – Development Control Committee 11.05.2005
- Committee Report and Minutes – Development Control Committee 17.05.2006
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Report prepared by C Pescod, Team Leader Development Control, Listed Buildings and Enforcement and Sally Canter, Team Leader Customer Focus, Planning Services

Proposed changes to Constitution

## 13. PUBLIC FORUM

13.1 At any ordinary or special meeting of the Development Control Committees or at any meeting of the Council at which a development control or enforcement item is being considered, County Councillors, Town and Parish Councillors members of the public, applicants and/or their Agents and any person directly or indirectly affected by an enforcement proposal will be allowed to make representations relating to specific planning applications or enforcement items, included in the agenda, immediately before the Committee or Council considers the application-, provided that they have registered to speak.

~~13.2 The total period allowed for the Public Forum shall not exceed 30 minutes.~~

13.3 The total period allowed for representations on any item shall not exceed 6 minutes, *excluding the period in 13.4.*

13.4 The period allowed for representations by a County Councillor or Town or Parish Councillor shall be restricted to 3 minutes and any other individual shall be restricted to 32 minutes.

~~13.5 Representations must be directed to the Chairman of the meeting.~~

13.56 The person making the representations will be asked to give their name and address and submit their representations.

13.56 Representations must be directed to the Chairman of the meeting.

13.7 In cases where a Member of the public has made a representation, the applicant and/or their Agent and any person the subject of an enforcement proposal and/or their Agent will be permitted to respond, and no further representations will be permitted.

13.8 The Chairman of the meeting will disallow any representation which in his or her opinion is scurrilous, improper, capricious, irrelevant, repetitious or otherwise objectionable.

13.9 The Chairman of the meeting may refuse to accept representations, or any further representations, on all or any application, or may shorten or extend the periods allowed for the Public Forum or representations if in his or her opinion it is conducive to the efficient discharge of the business of the Committee or the Council.

## Protocol for Development Control Matters and Development Control Committee Meetings

### 1. Purpose of Report

- 1.1 The purpose of this report is for Members to agree the terms of a protocol to operate in the discharge of business, in relation to Development Control matters and Development Control Committee meetings.

### 2. Recommendation

- 2.1 To endorse and approve the protocols as set out in Appendices 1 and 3.
- 2.2 Recommend that Council approve the amendments to the Council Procedure Rules attached as Appendix 2.

### 3. Links to the Corporate Business Plan

- 3.1 The adoption of a protocol will assist in the way we interact with our customers, in accordance with the "Customer Focus" priority.

### 4. Background

- 4.1 At its meeting on 20 January 2005, the Overview and Scrutiny Committee considered issues relating to the processing of planning applications and the planning enforcement service.
- 4.2 Following consideration of these matters, the Overview and Scrutiny Committee made the following recommendations to the Executive:
- "That the Planning Working Group should be reconvened to review the Development Control process, including Development Control meetings, late observations and the use of IT" (Minute 0112 refers).
- 4.3 Following consideration of the issues by the Executive at its meeting on 3 February 2005, members endorsed the recommendation of the Overview and Scrutiny Committee and resolved that:
- "The recommendation of Overview and Scrutiny Committee with regard to the Development Control process be referred to the Development Control Committee for consideration."
- 4.4 At its meeting on 11 May 2005, the Development Control Committee approved the terms of reference for the Working Group and agreed that the recommendations of the Working Group shall be reported and endorsed by the Development Control Committee.
- 4.5 The Development Control Working Group met in December 2005 to review the development control process and Committee meetings. Various issues were considered including the circulation of late observations, times allocated for public and Member speaking, format of the Development Control meetings, and the protocol for displaying plans and training.

- 4.6 It was resolved by members of the Development Control Working Group a protocol should be developed to cover all of these issues. Whilst a draft presented to members of the Working Group, this has been further developed in conjunction with the Chairman of the Development Control Committee. The draft has also been recently circulated to all Members of the Council for comment and any comments received have been incorporated where appropriate and practical.

## **5. Important Changes**

- 5.1 Whilst the protocol affects many aspects of the process, three important changes concerning lobbying, speaking in the open forum and time limits for Members and others wishing to speak are proposed.

### **5.2 Lobbying**

In future, it will be a requirement that if a Member has been lobbied on a particular application, by any means, they should make a declaration to that effect. This will encourage a more open and transparent decision making process.

### **5.3 Open Forum**

Whilst the total time allowed for representations remains at 6 minutes, the period allowed by any individual will be reduced from 3 minutes to 2 minutes. However, in future the Parish/Town Council will be given the opportunity to address the Committee for 3 minutes and will not be part of the 6 minute rule, as at present.

### **5.4 Time Limits for Members**

Whilst not wishing to stifle constructive debate, in future Members will be restricted to a total of 5 minutes on each item.

## **6. Financial Implications**

- 6.1 None arising directly from this report.

## **7. Environmental Implications**

- 7.1 Reviewing the Development Control function of the Authority and establishing a protocol, ensures the delivery of a quality service, to ensure compliance with National and Local policies.

## **8. Community Implications**

- 8.1 There will be direct community implications arising from this report, as the establishment of a protocol provides clarity for the public and potentially increases the number of people able to speak at Development Control Committees. It also recognises the role of the Town and Parish Council's in the Development Control process.

## **9. Human Resources Implications**

- 9.1 None arising directly from this report.

## **10. Equalities and Diversity Implications**

- 10.1 The proposed revised protocols will encourage a more open and transparent decision making process.

## **11. Legal Implications**

- 11.1 None arising directly from this report.

### **The Documents used in preparing this report:**

- Committee Report and Minutes – Overview and Scrutiny Committee 20.01.2005
- Committee Report and Minutes – Executive 03.02.2005
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- Committee Report and Minutes – Council 22.02.2005
- Committee Report and Minutes – Development Control Committee 11.05.2005

Report prepared by Charles Pescod, Team Leader Development Control, Listed Buildings and Enforcement and Sally Canter, Team Leader Customer Focus, Planning Services

Report of the Planning Services Strategic Manager to the Development Control Committee – 17 May 2006

## Draft Protocol for Development Control matters and Committee Meetings

The purpose of the protocol is to ensure that the manner in which planning decisions are reached is, and is seen to be, fair, open and impartial and that only relevant planning matters are taken into account.

The protocol covers decisions relating to the making of development plans and supplementary planning guidance, the determination of planning applications, decisions on enforcement matters, and the managing of planning obligations.

Only Officers and Members of the Council who are prepared to observe the guidance contained within this Code should be involved in making decisions on planning matters.

- 1. General role and conduct of Councillors and Officers in the decision making process**
- 1.1 Councillors once elected serve all their Ward constituents and the people of the District as a whole and not just those who may have voted for them. In dealing with planning applications Members must fulfil a number of roles both as representatives of the people and as decision makers, objectively considering the facts and deciding upon them. This is particularly pertinent to Councillors serving on a planning committee or who become involved in making a planning decision.
- 1.2 Members should generally avoid indicating the likely decision on an application or otherwise appear to commit the authority to any particular decision during contact with applicants or third parties. Members should take account of views put to them, whether by applicants or third parties, but neither by their conduct nor by word should favour any person, Company, or Group nor put themselves in a position where they appear to do so.
- 1.3 In circumstances where a Member feels obliged to express an early opinion, he or she can express an opinion in advance provided that they make it clear that it is based on the facts known to them at the time. It should be made clear that he or she will only be in a position to take a final decision after having heard all the relevant evidence, read the Committee report and listened to all the arguments at Committee.
- 1.4 If a Member involved in determining planning applications has responded to lobbying by openly advocating a particular course of action prior to a committee meeting that Member should make an open declaration of this and not take part in the decision making process.
- 1.5 Decisions should be based on an assessment of the provisions of the Development Plan (the Structure Plan and the Local Plan) and all material planning considerations. The Town and Country Planning Act 1990 (as amended) requires that decisions should be made in accordance with the Development Plan, unless material considerations indicate otherwise. The provisions of the Development Plan are therefore the starting point of the decision making process.
- 1.6 Members should generally restrict themselves to giving procedural and/or factual advice, and recommend to those who are lobbying to put their views in writing to the relevant Planning Officer, in order that their opinions can be included in the Officer Report to Committee.



1.7 All applications and other planning matters including enforcement issues, considered by Development Control Committees, should be the subject of full written reports by Officers incorporating firm recommendations. Members, in their decision-making role, should always bear in mind that although they are elected by a particular constituency, or Ward, their responsibility is to the District Council as a Local Planning Authority for the whole of the Council's administrative area.

1.8 Members may wish to discuss with Officers the merits and/or demerits of particular applications, and all relevant planning considerations including the views of local residents but in this process should not put pressure on Officers for any particular recommendation to be put to the Committee.

## **2. Interests**

2.1 Members with a prejudicial interest should not speak or vote in the decision making process. Members who are unsure whether an interest should be declared should seek the advice of the Council's Monitoring Officer although the final decision on whether to declare an interest rests with the Councillor himself or herself.

## **3. Training**

3.1 Planning Services will ensure that training is available and that all Members receive a proper grounding in the area of planning law, policy and practice and that update seminars/training are arranged. No Member shall be appointed to a Development Control Committee without having first undertaken a period of training on Planning. Thereafter, in any calendar year, there shall be at least one compulsory training session to update Members on practices, procedures and legislation. This will also apply to Members who are not on the Committee but who are substituted on an occasional basis.

3.2 Special arrangements will be put in place for any election year to ensure that all Members who will make planning judgements will receive training. An appropriate level of training in the basic essentials of the planning system will be given to new Members before they serve on any decision making body dealing with planning matters.

## **4. Public speaking at Committee**

4.1 At any ordinary or special meeting of the Development Control Committee or at any meeting of the Council at which a development control or enforcement item is being considered, members of the public, applicants and/or their Agents and any person directly or indirectly affected by an enforcement proposal will be allowed to make representations relating to specific planning applications or enforcement items, included in the agenda, immediately before the Committee or Council considers the application.

4.2 The total period allowed for representations on any item shall not exceed 6 minutes, except with the Chairman's consent.

4.3 The period allowed for representations by any individual shall be restricted to 2 minutes.

- 4.4 If registered to speak, the representative of the County Council, Town or Parish Council, who are not Members of the Committee, can address the Committee for no more than 3 minutes.
  - 4.5 The person making the representations will be asked to give their name and then address the committee. Representations must be directed to the Chairman of the meeting.
  - 4.6 In cases where a member of the public has made a representation, the applicant or their Agent and any person the subject of an enforcement proposal or their Agent will be permitted to respond, and no further representations will be permitted.
  - 4.7 Members of the public are required to register their intent to speak at the Committee meeting with the relevant Committee Clerk, preferably prior to the evening of the Committee. Priority will be given in the order in which speakers have registered.
  - 4.8 In those circumstances, where there is more than one supporter/objector and the applicant/Agent is also registered to speak, members of the public may be asked to nominate a spokesperson to address the Committee.
  - 4.9 Members of the public will not be allowed to address the Committee once the Members debate has started.
  - 4.10 The Chairman of the meeting will disallow any representation which in his or her opinion is scurrilous, improper, capricious, irrelevant, repetitious or otherwise objectionable.
  - 4.11 The Chairman of the meeting may refuse to accept representations, or any further representations, on any application, or may shorten or extend the periods allowed for representations if in his or her opinion it is conducive to the efficient discharge of the business of the Committee.
- 5. Members Debate**
- 5.1 A Local Member or their representative will be asked to speak at the start of the debate.
  - 5.2 Members will restrict their speaking to no more than 5 minutes.
  - 5.3 Members should be concise and should not re-iterate issues which have already been mentioned during the Members debate.
  - 5.4 Where Members wish to put forward a resolution which is contrary to the recommendation on the agenda, they should quote precisely which policy/policies is/are relevant and fully justify their decision with planning reasons.
  - 5.5 Members will only be allowed to display presentational material, which has been submitted at least 24 hours prior to the Committee Meeting, unless at the discretion of the Chairman.
  - 5.6 Members should restrict their comments only to the planning issues involved with the particular application being debated. Members should not raise matters relating to the conduct or capability of an officer during the debate. If a Member feels they have not been treated with proper respect or has concerns about the conduct or capability

of an officer they should raise this with the Implementation Team Leader for Development Control and Listed Buildings, either before or after the meeting.

## **6. Viewing Panels**

- 6.1 Viewing panels are subject to an existing protocol, which is attached at Appendix 3. Viewing Panels can cause delay and additional costs and should only be used where the expected benefit is substantial. Members should be specific in their reasons detailing what they want to look at on the site and why they want a Viewing Panel and these reasons will be recorded in the minutes.
- 6.2 Members are encouraged to view the site prior to the meeting or view the plans, which are available on the website [www.northwilts.gov.uk](http://www.northwilts.gov.uk), if they have concerns about a particular application.

## Proposed changes to Constitution

## Appendix 2

### 13. PUBLIC FORUM

- 13.1 At any ordinary or special meeting of the Development Control Committees or at any meeting of the Council at which a development control or enforcement item is being considered, County Councillors, Town and Parish Councillors members of the public, applicants and/or their Agents and any person directly or indirectly affected by an enforcement proposal will be allowed to make representations relating to specific planning applications or enforcement items, included in the agenda, immediately before the Committee or Council considers the application, provided that they have registered to speak.
- 13.2 The total period allowed for the Public Forum shall not exceed 30 minutes.
- 13.3 The total period allowed for representations on any item shall not exceed 6 minutes
- 13.4 The period allowed for representations by a County Councillor or Town or Parish Councillor shall be restricted to 3 minutes and any other individual shall be restricted to 32 minutes.
- ~~13.5 Representations must be directed to the Chairman of the meeting.~~
- 13.56 The person making the representations will be asked to give their name and address and submit their representations.
- 13.56 Representations must be directed to the Chairman of the meeting.
- 13.7 In cases where a Member of the public has made a representation, the applicant and/or their Agent and any person the subject of an enforcement proposal and/or their Agent will be permitted to respond, and no further representations will be permitted.
- 13.8 The Chairman of the meeting will disallow any representation which in his or her opinion is scurrilous, improper, capricious, irrelevant, repetitious or otherwise objectionable.
- 13.9 The Chairman of the meeting may refuse to accept representations, or any further representations, on all or any application, or may shorten or extend the periods allowed for the Public Forum or representations if in his or her opinion it is conducive to the efficient discharge of the business of the Committee or the Council.

### Development Control Committee Viewing Site Visit Protocols

The following rules of conduct shall apply in relation to a resolution to view a site and the subsequent attendance at Committee Viewing Panels.

1. The purpose of a site viewing by the Viewing Panel shall be to gather facts by looking at the site and its surrounding and addressing questions to the planning officer and the applicant or his agent.
2. A site visit will be considered necessary only where the proposals need to be seen in context, <sup>(S)</sup> as the available plans and supporting information do not provide sufficient information for an informed decision to be made.
3. Formal notification of the date and time of the Viewing Panel meeting shall be sent to all Members of the Development Control Committee, the Ward Member or Members if not Members of the Committee and the applicant and/or his agent.
4. Any person or body having made representations and any other persons or body will not be formally notified of the Viewing Panel meeting. If they do nevertheless attend they can remain as observers only and will not be permitted to make representations or ask questions.
5. The Chairman or Vice Chairman of the relevant Committee shall conduct the business of the Panel, generally in accordance with these guidelines, but also with an absolute discretion to exercise his or her judgement as to all matters of procedures, including the right to speak and clarify issues, so as to ensure the efficient and speedy dispatch of the business of the Panel in a clear and fair manner.
6. In the absence of the Chairman and Vice Chairman of the Committee, the Members present shall elect a Chairman for that meeting only.
7. The names of all persons present at the Viewing Panel will be recorded.
8. Members of the Committee will be given an opportunity to ask questions/clarify factual information relating to the proposals.
9. The consent of the landowner should be obtained to enter onto the application site or any other private land.
10. The applicant/agent shall be invited to attend, but only to answer questions/clarify factual information for members and will not be permitted to express opinions/views.
11. In resolving to view a site, the Committee can request the attendance of a Non-Statutory/Statutory Consultee or any other person or body, to clarify factual issues.
12. The submission of written comments from any party will not be allowed at the Viewing Panel but factual information, such as historic photographs, may, at the absolute discretion of the Chairman be noted.
3. The Viewing Panel is not a formal meeting and no decisions will be made or vote taken.
4. Members should be mindful of health and safety matters when visiting sites, but the attending officer will advise members of any particular known hazards and of any special precautions to be taken, including the wearing of safety clothing, if appropriate.
5. Members should not express an opinion regarding any application at the site visit but reserve their views for the meeting where the application is to be determined and the full information available to inform the decision making is available.

## DEVELOPMENT CONTROL COMMITTEE 17<sup>th</sup> May 2006

### LATE OBSERVATIONS

Text in bold is additional/amended information to that circulated to Members on Tuesday 16<sup>th</sup> May.

#### Agenda Item 7

Cllr H Jones

The following comments have been made in relation to the details of the report:

1 Page 8 Para 3:1 - replace "but who are substituted" with "but who substitute"

- *Comment by the Implementation Team Leader for Development Control - agreed.*

2 Page 129 - Para 5:2 - Would it be prudent to add "but at the chairman's discretion" This would occasionally (very occasionally I hope) allow for those issues that do not need non-waffling verbals.

- *Comment by the Implementation Team Leader for Development Control - the consensus of the Working Party was that Member's comments should be restricted to 5 minutes.*

3 Page 23 - Appendix 3 - Para 2 - replace "as" with "if"

- *Comment by the Implementation Team Leader for Development Control - agreed.*

4 I am still concerned at the volume of public interest/presence with some applications, which ideally should (must) be brought forward to the start of the meeting. I felt that in such cases, then the applicant should be the first on the agenda. I know that this cannot be determined until the public arrive. I think that Appendix 1 should reflect this.

- *Comment by the Implementation Team Leader for Development Control - Whilst there may be occasions where this occurs, I do not consider that this should be included within the protocol but should be treated as an exceptional circumstance, at the Chairman's discretion.*

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A public question has been received from the CPRE on Report 7. This question will be read out in the public question time, Members should note the Officers response below.

#### Report no7/Appendix1/Appendix2

We ask whether the following anomalies and inaccuracies can be explained and whether appendices 1 and 2 should be voted on given these anomalies.

1. Report 7 states that Town/Parish Councils have 3 mins outside the 6 mins for members of the public but Appendix 1 at 4.2 states the total period for representations on any one item shall not exceed 6 mins.

*Comment by the Implementation Team Leader for Development Control  
The Town/Parish Council are outside of the 6 minute rule. At 4.2 insert after representations add "(excluding Town/Parish Council)"*

*At Appendix 2 13.3 after representations add "(excluding Town/Parish Council)"*

2. Appendix 1 4.1 states applicants and/or agents will be allowed to speak, but then at 4.8 it states applicants/agents and states only one objector/supporter can speak.  
Can both the applicant and the agent speak?

*Comment by the Implementation Team Leader for Development Control*

*It is the intention that only the applicant or agent should be allowed to address the committee on any item. At 4.1 replace and/or with "or".*

3. Moreover, we believe that the applicant/agent should not be included in the 6 min for public participation. That is manifestly unfair to the public since the applicants/agents are not "the public" in the strict sense of a development control meeting. They should have the right to speak, but outside the six minutes. (see comments of Implementation Team Leader for Development Control below)

4. If applicants/agents are "members of the public" this reduces the time permitted to two slots of 2 mins for objectors/supporters. This is not in conformity with the NWDC draft Statement of Community Involvement which, at page 31 point 5.10, states that members of the public will be given 3 mins, with a total of 6 mins. (see comments of Implementation Team Leader for Development Control below)

5. We maintain that 2 mins speaking time is wholly inadequate for members of the public to convey complex issues on controversial applications. No doubt that is why the SCI, which has been subject to wide public consultation, allows 3 mins.

*Comment by the Implementation Team Leader for Development Control*

*Applicants/agents are already part of the 6 minute rule and no change is being proposed.*

*By now excluding the Town and Parish Councils from the 6 minute rule and reducing each individual speaker to 2 minutes it actually allows representations to be made by more individuals than before.*

*Such a minor change to the Statement of Community Involvement (SCI) is permitted (page 37, paragraph 6.4) providing it does not undermine the SCI in a significant way. In this instance, it is actually allowing more people to participate in the debate on planning applications.*

*All persons registering to speak will be given advice on how to make their representations to the committee to ensure the main concerns are addressed.*

### Appendix 3

Where in the protocol are the rules in relation to a resolution to view a site prior to the application and officers report coming to committee?

What are the planning reasons for such a site visit?

We are aware that such a visit took place in February 2005 with the application not coming to committee until July 2005. Moreover only one DC committee member attending the site visit subsequently attended the decision making meeting. What was the point of such a visit?

*Comment by the Implementation Team Leader for Development Control*

*There are no proposed changes to the current Viewing Panel Protocol. This issue would be at the Committees discretion.*