



Section 8 - The Planning Rules and Code

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Background

Herefordshire Council, like all local planning authorities is required to determine planning applications in accordance with local, regional and national policy having regard for all material considerations.

The Planning Rules and Code complement the Councillor Code of Conduct with which Councillors should be familiar.

The obligations and responsibilities set out in the Planning Rules and Code apply to all Councillors of the Planning and Regulatory Committee and in similar ways to all other Councillors.

The Council's planning policies are adopted in the public interest for the benefit of the whole community rather than for any particular individual or interest group. Decisions are required to be taken in accordance with the current development plan and having regard to all material considerations. Each planning application is considered on its merits. However, planning decisions by their very nature are often contentious, with strong contrary views being expressed. Any decision can be the subject of detailed scrutiny or challenge. Failure to follow the requirements of the Council's Planning Rules and Code may result in sanctions under the Councillor Code of Conduct, or may be regarded by the Local Government Ombudsman as incompatible with good administration.

The Planning Rules and Code covers the whole of the planning process, including policy formulation and development control, and all Councillors and Officers who come into contact with it. The Planning Rules and Code is designed to promote greater mutual support and understanding between Councillors and Officers to the benefit of all involved in the planning process. It is also designed to give the public greater confidence that Herefordshire Council discharges its planning responsibilities fairly and openly

COUNCILLORS WHO ARE VOTING MEMBERS OF THE COMMITTEE

4.8.1 Involvement in planning applications

4.8.2 In making decisions on planning applications, Planning Officers and Councillors will:

- (a) act fairly and openly and without prejudice
- (b) approach each application with an open mind
- (c) carefully weigh up all the material planning considerations
- (d) avoid inappropriate contact with interested parties
- (e) ensure that valid reasons for decisions are clearly stated.

4.8.3 Councillors will be free to vote on planning applications as they consider appropriate (that is, without a Party 'whip'), having proper regard for all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act 1990, decisions **will be** based on the provisions of the Herefordshire Local Plan Core Strategy 2011 – 2031 and all material planning considerations.

4.8.4 Councillors **must not** give instructions to Officers nor place pressure on officers in order to secure a particular recommendation on a planning application.

4.8.5 Councillors **will not** use their position improperly to confer or secure for themselves, or for any other person, an advantage or disadvantage.

4.8.6 A member of the committee who does not intend to take part in any discussion or vote (because they have either predetermined a matter or have an interest) is not a voting member of the committee.

4.8.7 Training

4.8.8 Councillors who are a member of the Planning and Regulatory Committee will be required to undergo mandatory training in planning procedures. This will normally take place within three months of appointment to the committee and at appropriate intervals thereafter. A record will be kept by the Monitoring Officer of the training you undertake. Members of the Planning and Regulatory Committee who have not undertaken the training, may not participate in meetings of the Planning and Regulatory committee until such training has been completed

4.8.9 Discussions with applicants

4.8.10 Pre-application meetings with prospective applicants are encouraged, but to avoid misunderstandings, they require a degree of formality. They will normally involve Planning Officers and will follow the guidance in the following paragraph.

4.8.11 It will be made clear at the start of pre-application meetings that:

- (a) Councillors' or Planning Officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Local Plan Core Strategy and other adopted Council policies
- (b) no decisions may be made or advice given which would bind or otherwise compromise any planning decision

- (c) Councillors should not give separate advice on the development plan, material considerations, or planning obligations

4.8.12 A written note must be made of the pre-application meeting and will be made available for public inspection, subject to the usual rules about access to information, if and when an application is submitted.

4.8.13 Councillors may, following discussion with the appropriate Planning Officer, take part in organised post-submission meetings with applicants or other parties. A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to information. It is recommended that at least one Planning Officer be present at all such meetings.

4.8.14 Lobbying

4.8.15 Lobbying can take place by way of an approach to an individual or a group of Councillors, by telephone, or on a chance meeting, or by way of a request to see all or some of the members of the Planning and Regulatory Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to you. However, to avoid Councillors who are members of the Planning and Regulatory Committee compromising their position before they have received all the relevant information, evidence and arguments, they must:

- (a) take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have taken into account all relevant considerations.
- (b) direct lobbyists or objectors to the Planning Officer, and
- (c) advise the Head of Planning as soon as possible of the existence of any substantial or abnormal lobbying activity.

4.8.16 Hospitality

4.8.17 Councillors are strongly discouraged from receiving hospitality from people with an interest in any planning proposals. If receipt of hospitality is unavoidable, Councillors will ensure that it is of the minimum level and, if it exceeds the level to which the requirement for declarations of gifts and hospitality applies, Councillors must declare the offer as soon as possible in the register kept by the Monitoring Officer.

4.8.18 Substitutes

4.8.19 Substitute members of the Planning and Regulatory Committee are permitted but any substitute member will be required to undertake mandatory training in planning procedures and be appropriately trained to the same level as the member they are substituting for.

4.8.20 Substitute members have all the powers and duties of an ordinary member of the Planning and Regulatory Committee.

4.8.21 A substitute member must be identified by name as replacing a primary member of the Planning and Regulatory Committee before a committee meeting. A substitute can only replace the primary member for the entire meeting – substitutes cannot be made for an item on the agenda.

4.8.22 General provisions relating to voting members

- 4.8.23 The above rules apply to all decision makers on committee i.e. those who are voting members.
- 4.8.24 A ward member who is a member of the committee is not a voting member of the committee.
- 4.8.25 A member of the committee who does not intend to take part in any discussion or vote (because they have either predetermined a matter or have an interest) is not a voting member of the committee.

COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE (AND NON-VOTING MEMBERS OF THE COMMITTEE)

4.8.26 General Conduct

- 4.8.27 Councillors who are not members of the Planning and Regulatory Committee who are Ward Councillors affected by a planning application represent their own views or that of their constituents as a consultee and will be consulted on the planning application, will be invited to speak at the Planning and Regulatory Committee and attend any site inspections that take place in their ward.
- 4.8.28 Councillors who are not members of the Planning and Regulatory Committee should not lobby members of the Planning and Regulatory Committee in order to secure the outcome on a planning application that either they or their constituents seek. The Ward Councillor, the appropriate town or parish council and local residents will have the opportunity to present their views to the Planning and Regulatory Committee in accordance with the Council's procedure for public speaking at the Planning and Regulatory Committee as set out in 4.8.100.
- 4.8.29 All Councillors may attend meetings of the Council's Planning and Regulatory Committee even if they are not a member of the Planning and Regulatory Committee. Councillors attending a meeting of the Planning and Regulatory Committee should not sit in the public gallery, but in the place reserved in the committee room for Councillors who are not members of the Planning and Regulatory Committee.

4.8.30 Hospitality

- 4.8.31 Councillors are strongly discouraged from receiving hospitality from people with an interest in any planning proposals. If receipt of hospitality is unavoidable, Councillors will ensure that it is of the minimum level and, if it exceeds the level to which the requirement for declarations of gifts and hospitality applies, Councillors must declare the offer as soon as possible in the register kept by the Monitoring Officer.

PLANNING OFFICERS

4.8.32 General Conduct

- 4.8.33 In reporting to the Planning and Regulatory Committee, Planning Officers will:

- (a) provide professional and impartial advice
- (b) make sure that all information necessary for a decision to be made is given
- (c) set the planning application in the context of the development plan documents and all other material considerations
- (d) include the substance of objections and the views of people who have been consulted
- (e) provide a clear and accurate written analysis of the issues
- (f) give a clear recommendation

4.8.34 Record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. Particular care is to be taken with delegated decisions, which should be as well documented and recorded as those taken by members of the Planning and Regulatory Committee. These principles apply equally to enforcement and development plan matters.

4.8.35 Planning Officers are responsible for carrying out the decisions of the Planning and Regulatory Committee, whether or not those decisions are in line with Planning Officer recommendations.

4.8.36 Hospitality

4.8.37 Planning Officers may not receive gifts or hospitality beyond usual refreshment (such as tea or coffee) at a meeting, from people with an interest in a planning application/proposal.

SUBMISSION OF A PLANNING APPLICATION

4.8.38 Discussions on Planning Applications

4.8.39 All Planning Officers taking part in pre-application or post-submission discussions with applicants, supporters or objectors should make it clear that decisions on planning applications are taken either:

- (a) by the members of the Planning and Regulatory Committee in committee, or
- (b) in specific circumstances by the Service Manager or by a Planning Officer to whom they have the power to delegate.

4.8.40 A written note will be made of all such meetings and may be distributed. The meeting note and any follow-up correspondence must be placed on the planning application file, in case a planning application is made following initial discussions.

4.8.41 Initial submission of applications

4.8.42 All Councillors will be informed by email on the submission of a new planning application in their ward.

4.8.43 All applications will proceed and will be determined under delegated powers unless they fall within the category of applications automatically to be referred to committee or are redirected as provided for under the redirection arrangements in these rules. Paragraph

4.8.44 to 4.8.46 below applies only to planning applications which are to be determined under delegated powers.

- 4.8.44 In the case of a major planning application the case officer will identify to the ward member whether an application triggers the need for a section 106 agreement in accordance with the council's adopted Planning Obligations Supplementary Planning Document
- 4.8.45 In the case of major applications requiring a Section 106 agreement the case officer will have a subsequent conversation/meeting with the ward member to ensure the local mitigation measures are appropriately incorporated. As part of this process officers and members will be guided by the councils adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the planning obligations manager.
- 4.8.46 The Ward Councillor for the purpose of 4.8.44 and 4.8.45 is/are the Councillor/Councillors in whose ward the application is located, or whose wards are materially affected by the planning application.

SITE INSPECTIONS

4.8.30 General

- 4.8.47 Site Inspections by the Planning and Regulatory Committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to the decision. This is true particularly when the issues concern, for example, visual impact, the character of an historic building or the effect of development on local amenity. However, site inspections are costly, cause delay to decisions and are an unsuitable place for holding a reasoned debate.
- 4.8.48 The criteria for holding site inspections are:
- (a) the character or appearance of the proposed development itself is a fundamental planning consideration; or
 - (b) a judgement is required on visual impact; or
 - (c) the setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.
- 4.8.49 The Chairperson of the Planning and Regulatory Committee and the Service Manager will determine which planning applications will be the subject of a prior site inspection. This does not prevent any member of the Planning and Regulatory Committee requesting a site inspection at the Planning and Regulatory Committee meeting when it has not already been visited by this procedure.
- 4.8.50 Site Inspections should not be held when inspection of the site is irrelevant to the material planning considerations. Any member of the Planning and Regulatory Committee may request a site inspection, but reasons based on the above criteria must be stated. Where a motion for a site visit is moved at a meeting of the Planning and Regulatory Committee it will be put to the vote immediately; if the motion is carried there will be no further discussion of the planning application which will be deferred to a later meeting date after a site visit has taken place.

- 4.8.51 The purpose of the site visit is fact finding and familiarisation of the site of a planning application. Planning Officers will be able to point out relevant features of the site and surroundings. Members of the Planning and Regulatory Committee will be able to see the physical features of the site and ask questions through the Chairperson or the Planning Officers to seek clarification. Neither the applicant/agent nor third parties will be allowed to participate in the site inspection. The input of these parties is made at the Planning and Regulatory Committee meeting itself.
- 4.8.52 At the discretion of the Chairperson of the Planning and Regulatory Committee the appropriate parish or town council may be invited to observe the inspection. Where a parish or town council is invited to a site visit it will be made clear that any access onto the application site will be subject to permission from the owner/applicant. Where permission is not granted the parish or town council should view the site from public vantage points only. On a site visit a parish or town council may not contribute to the opportunity to ask questions of Planning Officers on site.
- 4.8.53 No discussion of the merits of the planning application is permitted at site inspections and all questions from Councillors will be put through the Chairperson.
- 4.8.54 The site inspection party will stay together as a group. Wherever possible the party should arrive at and leave the site together.
- 4.8.55 As a member of the Planning and Regulatory Committee when on site visits Councillors should not make any comments that could create an impression that they have already formed a view on the merits of the planning application. No decision on the planning application should be made until the meeting of the Planning and Regulatory Committee at which the planning application is to be considered, when members of the Planning and Regulatory Committee will have before them all necessary information to be able to make an informed decision, including any material facts arising from the site visit which the Service Manager considers should be reported to the Planning and Regulatory Committee.

4.8.56 Conduct of site visits

- (a) visits will be conducted in a formal manner.
 - (b) the Chairperson or Vice-Chairperson will open the visit and remind members of its purpose and conduct.
 - (c) Planning Officers will highlight issues relevant to site inspection. If issues are raised which necessitate consultation with the applicant or his agent, this should be done after the close of the visit and the outcome reported to the subsequent Planning and Regulatory Committee.
 - (d) Ward councillors will be invited to site inspections in their wards and asked to highlight local issues relevant to the site inspection.
 - (e) the Chairperson or Vice-Chairperson will close the visit.
 - (f) no decision will be made concerning the planning application on site.
 - (g) no formal notes will be made.
 - (h) no hospitality will be accepted.
- 4.8.57 If a member of the Planning and Regulatory Committee finds it necessary to visit a site alone (perhaps because it was not possible for them to attend a Planning and Regulatory Committee site visit), the Councillor should view the site only from public vantage points, seek to avoid any discussion with interested parties, and, if there is such discussion, make it clear that no decision on the planning application will be taken until it has been discussed at the relevant Planning and Regulatory Committee.

INFORMATION RECEIVED PRE-COMMITTEE MEETING

4.8.58 Material submitted directly to Planning and Regulatory Committee Members

4.8.59 If a member of the Planning and Regulatory Committee receives material from or on behalf of an applicant or third party in connection with a planning application before a Planning and Regulatory Committee the Councillor should establish from the Planning Officers whether the material has been received by them. If it has not, Councillors should make it available as soon as possible to the Service Manager.

4.8.60 Documents in connection with an application should all be dealt with in the Planning Officer's written report to Planning and Regulatory committee. Any additional information received after the preparation of that report up to noon on the day before the Planning and Regulatory Committee meeting will also be brought to the attention of the Planning and Regulatory Committee if it raises new and relevant material planning matters. Papers received after that time will normally be discounted, since time will not be available to check their accuracy or to give consideration to their implications. A printed Planning and Regulatory Committee update will be published to Herefordshire Council's website the evening before the Planning and Regulatory Committee meeting.

4.8.61 Any material planning information which is received after the written report has been prepared and before the cut-off time specified in 4.8.60 above will be presented orally to the Planning and Regulatory Committee by Planning Officers provided that the officer considers that the information raises new and relevant material planning matters.

REDIRECTION OF DELEGATED PLANNING DECISIONS

4.8.62 General

4.8.63 The majority of decisions on planning applications are delegated to the Chief Executive and determined by Planning Officers acting under the Chief Executive's Scheme of Delegation in accordance with the Functions Scheme (Part 3). However, Ward Councillors may choose to ask that a particular planning application is redirected for decision by the Planning and Regulatory Committee. A Ward Councillor for the purpose of this redirection procedure is the Ward Councillor in whose area the planning application lies and any councillor whose ward is materially affected by the planning application.

4.8.64 Reasons for redirection

4.8.65 A request for redirection should be made in writing to the Planning Officer assigned to the planning application. The Ward Councillor will need to ensure that the request for redirection is made on legitimate planning grounds as the reasons for the redirection request will be placed on the planning application file and will be accessible to view on Herefordshire Council's website.

4.8.66 A redirection will occur in the following circumstances:

- (a) the application raises unusual or sensitive planning issues which would benefit from the consideration of the Committee, or
- (b) the application has attracted an unusually high level of public interest and /or objections

- (c) there has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.

4.8.67 All requests for redirection will be discussed by the Service Manager (or their delegate) and the Chairperson of the Planning and Regulatory Committee. A decision whether to accept the redirection will be made by the Service Manager (or their delegate). The decision will be confirmed in writing. In the Chairperson's absence, the Vice-Chairperson will be consulted.

4.8.68 Whether or not the request for redirection is agreed the request will be published as a representation alongside the reason why the request was agreed or refused on the planning application on Herefordshire Council's website. The Planning Officer's written report will also give the name of the Ward Councillor making the request for redirection and the reasons for the redirection.

4.8.69 Ward Councillors must as part of the request for redirection state why the matters raised in the request for redirection warrant scrutiny by the Planning and Regulatory Committee.

4.8.70 There will be circumstances in which an application is amended in order to respond to issues raised in the normal processing of the planning application by the Planning Officer, statutory consultees or local residents. In the event that the reasons for redirection are resolved through the amendments made to the planning application the Ward Councillor will be at liberty to withdraw their request for redirection and a Planning and Regulatory Committee determination. Thereafter the decision will revert to a delegated decision.

4.8.71 The Redirection timescales

4.8.72 A request for redirection needs to be made as soon as possible after the date a valid planning application is submitted to avoid unnecessary delays in determining planning applications.

4.8.73 Redirections should normally be made by the relevant ward members before the expiry date of the consultation period, subject to 4.8.78 below.

4.8.74 Conditional Redirection

4.8.75 In some cases, a Ward Councillor may be content that the application be re-directed only if planning officers are intending to grant or refuse planning permission. In that case a Ward Councillor can ask that the matter only be redirected in accordance with this procedure if it is either the intention of the planning officer to grant or refuse the application.

4.8.76 Other circumstances

4.8.77 Any other reasons for requesting a redirection other than those set out above will be considered on their individual merits and circumstances.

4.8.78 Referrals requested after the expiry date of the consultation period

Any of the circumstances set out above could justify a late redirection provided the reasons for the lateness of the request are explained when the request is made. In these circumstances, the Service Manager will make a judgement based on the issues raised, and the stage reached in the processing of the application.

4.8.79 Procedure

4.8.80 A planning application which has been re-directed to the Planning and Regulatory Committee for determination will be considered in accordance with these rules and code.

4.8.81 The Ward Councillor who made the request for redirection will be notified of the date of the relevant Planning and Regulatory Committee meeting and will be invited to speak at that Planning and Regulatory Committee meeting in accordance with 4.8.100

DETERMINATION OF APPLICATION AT COMMITTEE

4.8.82 Members of the Planning and Regulatory Committee have the power to determine applications for planning permission and applications for listed building consent which are not decided by an Officer which including those matters redirected to the Planning and Regulatory Committee for determination under the Redirection Arrangements set out in 4.8.62 – 4.8.78.

4.8.83 The Head of Planning in discussion with the Chairperson of the Planning and Regulatory Committee, may withdraw any item from the agenda of the Planning and Regulatory Committee after the preparation of the written report but before discussion by the Planning and Regulatory Committee if the circumstances of the consideration of a planning application change within that period.

4.8.84 Applications in which a member of the councillor or an officer has an interest

4.8.85 All applications which are submitted by or on behalf of a member of the council in their private capacity, by their partner, a member of their family or a close association must be drawn to the attention of the Service Manager by the member in writing. If the member has a material interest in the outcome of the application or if the application is submitted by their partner, it will be determined by the Planning and Regulatory committee. If the member is a member of the member of that committee then they must take no part in the determination of the application. The member must declare a disclosable pecuniary interest and may only speak as the applicant or appoint an agent to speak on your behalf in accordance with the Planning Rules (paragraph 4.8.122 (Public Speaking at Planning and Regulatory Committees)). The Councillor cannot speak as a ward member if the application is in their Ward.

4.8.86 If the application is from a member of a councillor's family or a close association, or the councillor has a conflict of interest, then the chairperson of the Planning and Regulatory Committee will appoint another member of the council to provide procedural and other advice and information to the applicant, and to the town or parish council concerned. If the application is also in the councillor's Ward then this other member may speak at committee as Ward member.

4.8.87 All planning applications submitted from officers who are employed in the planning service or work closely with it or who are a senior manager as defined in the Council's pay policy statement, or by a close family member such that the officer has a material interest in the planning application, must be re-directed to the Planning and Regulatory Committee for a decision, rather than being dealt with in accordance with the scheme of delegation to Planning Officers. If the officer concerned is present at the meeting of the Planning and

Regulatory Committee at which such an application is determined, the officer must leave the room during consideration of the planning application.

4.8.88 Declaration of interests in planning applications and at Planning and Regulatory Committee

4.8.89 Interests need to be considered and declared as necessary in accordance with the Code of Conduct.

4.8.90 If a member of the Planning and Regulatory Committee has a Table 1, Table 2 or an "other interest which relates to a financial or wellbeing interest then under the Code of Conduct, the Councillor cannot participate in the meeting or vote on any item at the meeting and does have to leave the meeting. The Councillor may attend a Planning and Regulatory Committee meeting only as a member of the public, for the purposes only of making representations, provided that the public are also allowed to attend the meeting for the same purpose. The Councillor must declare they are attending the meeting as a member of the public at the start of the meeting. If a Councillor has such an interest, they should notify the Monitoring Officer before the Planning and Regulatory Committee meeting that they wish to speak.

4.8.91 If a member of the Planning and Regulatory Committee has such an interest the procedure in Planning and Regulatory Committee will be as follows. The Planning Officer will present the report. If the Councillor wants to make representations, they will take their place in the space allocated to public participation. The Councillor will not be acting in their capacity as a Councillor and may make representations for no longer than three minutes (the time allocated to public participants at Planning and Regulatory Committee). Thereafter, the Councillor may take no further part in the debate or decision-making of the Planning and Regulatory Committee and must immediately leave the meeting. Such a Councillor may not stay in the meeting or listen to any other public participation in respect of the application.

4.8.92 Withdrawal from the Planning and Regulatory Committee meeting involves physically leaving the committee meeting room. The Chairperson of the Planning and Regulatory Committee should suspend the proceedings of the Planning and Regulatory Committee briefly while the Councillor leaves the committee meeting room.

4.8.93 Where a Councillor has a dispensation granted the Councillor may be granted the ability to speak and or vote by the by the Monitoring Officer and/or Audit and Governance Committee. The Councillor will still need to declare the interest.

4.8.94 Planning officers must play no part in the processing of any planning application in circumstances where there is, or would be perceived to be, a conflict between their personal or financial interests, those of their families or friends, and their professional duty. They must openly declare the existence of any such conflict in writing to the Service Manager. Any interest the Service Manager has in an application must be declared to the Monitoring Officer.

4.8.95 Cabinet members

4.8.96 There will be occasions when a cabinet member will wish to express comments on a particular planning application. This may include where the council is the applicant. Cabinet members are permitted to speak at the Planning and Regulatory Committee meeting for the item but must then withdraw from the meeting while the planning application is discussed

and determined. Retiring to the public gallery is not sufficient and physical withdrawal from the room is required.

4.8.97 Where a cabinet member has a ward representation role, they may, at the discretion of the Chairperson, also speak as a Ward Councillor.

4.8.98 Planning and regulatory committee members who serve on parish and town councils

4.8.99 Some Councillors will be members of parish or town councils as well as Herefordshire councillors. In such circumstances Councillors may express their views and vote at the respective meetings of both councils having regard to the information available to them at that time. Having voiced a view and/or voted at a parish council meeting will not of itself prevent a member of the Planning and Regulatory Committee being involved in decision making at Planning and Regulatory Committee. Prior indication of a view on a planning application does not amount to predetermination. Similarly, members on the Planning and Regulatory Committee can attend parish meetings in their ward and speak about planning applications. Talking to constituents be they applicants or objectors is permitted; it does not mean the Councillor has a closed mind. A member of the Planning and Regulatory Committee will not be taken to have a closed mind just because they may previously have done anything that directly or indirectly indicated what view they had, would have or might take so long as they have an open mind to the debate on the application.

4.8.100 Ward Councillors

4.8.101 At Planning and Regulatory Committee a Ward Councillor will have an automatic right to start and close the member debate on the planning application concerned, subject to the provisions on the declaration of interests as reflected in 4.8.105 (Declaration of interests). Ward Councillors will be allocated a maximum of 10 minutes to speak at the beginning of the debate on the planning application and a maximum of 5 minutes at the close of the debate on the planning application. In some circumstances it is advisable for a substitute to be used for the planning committee meeting so that the ward councillor role is distinct.

4.8.102 A ward member who is a member of the committee is not a voting member of the committee.

4.8.103 In the case of the ward member who **isn't** a member of the Committee, they would be invited to address the Committee for that item. They are not a decision maker and cannot vote.

4.8.104 In the case of the ward member who **is** a member of the Committee, they can act as the ward councillor as set out above but, as a decision maker, cannot vote on that item.

PUBLIC SPEAKING

4.8.105 General procedure

4.8.106 At Planning and Regulatory Committee the public will be permitted to speak at meetings when the following criteria are met:

- (a) the planning application on which they wish to speak is for decision at the Planning and Regulatory Committee
- (b) the person wishing to speak has already submitted written representations within the time allowed for comment

- (c) once an item is on an agenda for Planning and Regulatory Committee all those who have submitted written representations will be notified and any person wishing to speak must then register that intention with the Monitoring Officer at least 48 hours before the meeting of the Planning and Regulatory Committee
- (d) if consideration of the planning application is deferred at the meeting of the Planning and Regulatory Committee, only those who registered to speak at that meeting of the Planning and Regulatory Committee will be permitted to do so when the deferred planning application is considered at a subsequent or later meeting of the Planning and Regulatory Committee (unless there is a full rehearing of the application at the later meeting).
- (e) at the meeting a maximum of three minutes (at the Chairperson's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes in total will be allowed for public speaking
- (f) speakers may not distribute any written or other material of any kind at the Public and Regulatory committee meeting
- (g) speakers' comments must be restricted to the planning application under consideration and must relate directly to planning issues
- (h) on completion of public speaking, members of the Planning and Regulatory Committee will proceed to determine the planning application
- (i) in relation to Major planning applications only, the Chairperson will in exceptional circumstances allow additional speakers and/or time for public speaking and may hold special meetings at local venues if appropriate.

DECISION MAKING

4.8.107 Voting

4.8.108 Members of the Planning and Regulatory Committee will only be able to vote on an application before a Planning and Regulatory Committee if the member has been present for the whole of the presentation of and discussion on the planning application.

4.8.109 Decisions contrary to officer recommendations or to development plan policies

4.8.110 From time to time, there will be occasions when a member of the Planning and Regulatory Committee or the Planning and Regulatory Committee disagrees with the professional advice on a planning application given by Planning Officers.

4.8.111 The law requires that decisions on planning applications should be taken in accordance with the development plans unless material considerations indicate otherwise (S38A Planning and Compulsory Purchase Act 2004)

4.8.112 If the Planning and Regulatory Committee makes a decision contrary to the Planning Officer's recommendation (whether for approval or refusal) a detailed minute of the Planning and Regulatory Committee's reasons will be made and a copy placed on the application file. In this context members of the Planning and Regulatory Committee should be prepared to explain in full their reason for not agreeing with the Planning Officer's recommendation. In so doing, members of the Planning and Regulatory Committee should observe the 'Wednesbury principle' which requires all relevant information (i.e. material considerations) to be taken into account and all irrelevant information (i.e. non-material matters) to be ignored.

4.8.113 The Planning and Regulatory Committee may occasionally defer consideration of an application at a meeting to allow for a site visit to take place or to request additional

information before reaching a decision. Where a motion for a deferral of an application is moved it will be put to the vote immediately. Clear reasons for the deferral must be stated when the motion is proposed. If the motion for deferral is carried there will be no further discussion of the application. Consideration and determination of the application will take place a later meeting date to be advised by the Service Manager.

4.8.114 Deferrals

- 4.8.115 In this section a 'deferral' means where a planning application is considered at a meeting ('deferral meeting') but then deferral or adjourned before a decision is made. The final decision on the planning application is made at a later meeting of the planning committee ('decision meeting'). The reasons for the deferral or adjournment are usually where the committee is seeking further information from officers or where the members of the committee determine that a site visit is appropriate.
- 4.8.116 If a planning application is deferred, the members present at the decision meeting may decide on it.
- 4.8.117 At the decision meeting all information shall be presented and made available to the members of the committee including that presented at the deferral meeting and that available from the site visit. The full merits of a planning application and all relevant considerations will be presented to the planning committee at the decision meeting. The public shall be notified of any deferral and opportunity to address the committee (irrespective if they had done so at the deferral meeting).
- 4.8.118 The members present shall not be prevented from taking part in the vote at the decision meeting simply because they did not attend either a deferral meeting or site visit. However, the members present at the decision meeting must satisfy themselves that that have all relevant information to them to enable a fully informed decision to be made on the planning application.
- 4.8.119 Where a planning application has been part decided (for example, the committee has resolved to grant planning permission conditional on the heads of terms of a section 106 agreement being approved), then at the deferred meeting, the members of the planning committee would only consider the part of the planning application that has yet to be decided (in this example, the committee would only consider the terms of the section 106 agreement and not the merits of the decision to grant permission. If the section 106 terms are agreed, then the full decision would have been made to grant permission subject to the s106 agreement. If the terms are not agreed, then the application would be refused due to lack of suitable mitigation in the s106 agreement).

POST DECISION

4.8.120 Ward Member notification

- 4.8.121 Ward Councillors will be advised where appropriate by the Planning Officer, the planning enforcement team, or the planning obligations manager of the following events:
- (a) any evolving inconsistencies between a planning permission and development taking place
 - (b) any appeal against the refusal of planning permission
 - (c) the receipt/apportionment of Section 106 Agreement monies
 - (d) any proposed variations to the Section 106 Agreement.

4.8.122 Action on Decisions Taken Contrary to Professional Advice

4.8.123 In cases where a Planning Officer recommendation for approval has been overturned by the Planning and Regulatory Committee and an appeal or that decision is lodged:

- (a) Planning Officers will give full support to members of the Planning and Regulatory Committee and any external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves; and
- (b) Planning Officers will give evidence themselves only in exceptional circumstances, where their Code of Professional Conduct is not breached; and
- (c) where a hearing is to be held, with no cross-examination, Planning Officers may give evidence themselves, but this will normally be only if the Planning Officer concerned has not been involved in formulating the original recommendation; and
- (d) Planning Officers must give full support to members of the Planning and Regulatory Committee where a decision is appealed using the written representations procedures.

4.8.124 Conditional Approvals

4.8.125 In this section a 'conditional approval' means where a planning committee approves a planning application, but the issue of the planning permission is only granted when the condition is satisfied. The decision to determine if the condition is satisfied is delegated by the planning committee to the Planning Development Management Service Manager.

4.8.126 If the condition relates to the completion of a s106 planning agreement or section 278 highways agreement then the planning permission shall only be granted where a copy of the proposed agreement has been placed on Part 1 of the local planning authority planning register for a minimum of 5 working days.

4.8.127 If the condition relates to any other matter that amounts to a material consideration, then the terms of the delegation to officers shall include full details of how the condition is to be discharged and the period of publication on Part 1 of the register (if any) required.

4.8.128 Delegations to planning officers

4.8.129 The Head of Planning or the Service Manager may delegate functions in this Section 8 to a substitute officer to exercise the functions on their behalf.

4.8.130 In this Section 8, references to Head of Planning shall mean the Head of Planning and Building Control and Service Manager shall mean the Service Manager Development Control.