

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4K – Planning and Planning Sub-Committee Procedure

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### 1 INTRODUCTION

- 1.1 This Procedure applies to all meetings of the Planning Committee and the Planning Sub-Committee in relation to the determination of planning applications and any other business dealt with at either of these Committees. Reference to Committee in this Procedure is a reference to both or either of these Committees. Likewise, reference to a Planning Committee Member also encompasses reference to a Planning Sub-Committee Member. Reference to the Chair or Vice Chair is a reference to the Chair or Vice Chair of both or either of these Committees.
- 1.2 The determination of planning applications is a formal statutory administrative process involving the application of national, regional and local planning policies that takes place within a legislative framework. Planning decisions can be appealed by unsuccessful applicants and challenged by way of judicial review by aggrieved parties. Complaints about maladministration and injustice can also be made to the Local Government Ombudsman.
- 1.3 In order to mitigate these risks, it is vital that those involved in the determination of planning applications and particularly officers and Members, at all times act reasonably and fairly to applicants, supporters and objectors. These rules are designed to help ensure this is achieved, but they should not be read in isolation; Members need to also have regard to the Planning Code of Good Practice to be found at Part 5D of this Constitution. Both this Procedure and the Planning Code of Good Practice are subordinate to the requirements set out in the Members' Code of Conduct and nothing in this Procedure or the Code shall be read as implying greater obligations on Members than as set out in the Members' Code of Conduct in Part 5I of this Constitution.

## 2 COMMITTEE CONSIDERATION CRITERIA

- 2.1 Part 3 of the Constitution (Responsibilities for Functions: Planning Committee and Planning Sub-Committee) sets out the types of planning application that may be considered by these Committees. This part of the Procedure sets out the circumstances where such an application will be referred to Committee for decision.
- 2.2 The Timescales, General Requirements and Criteria set out below will be applied in determining whether any Representations received in respect of an application that may be considered by Committee would require that application to be determined by that Committee rather than dealt with under officer's delegated powers. The term Representation(s) also includes Petition(s).
- 2.3 This section deals with:
- **Timescales:** within which all Representations must be with the Development Management service
  - **General Requirements:** that all Representations must comply with
  - **Criteria:** that apply to the Representations from specific people or bodies such as the Chair or Vice Chair, a Member for the Ward within which the application site is situated or immediately adjoins (Ward Member), the Croydon Member of the Greater London Assembly (GLA Member), the Member of Parliament ('MP') for the constituency within which the application site is situated or immediately adjoins and Resident Associations (RA) plus Representations from other people or bodies
- 2.4 For probity reasons, the Timescales, General Requirements and Criteria set out in this Procedure must be adhered to. The decision of the Director of Planning and Strategic Transport will be final in determining whether the Timescales, General Requirements or Criteria are met.
- 2.5 Any Representation that does not meet the Timescales, General Requirements and Criteria will therefore not be a factor in deciding whether the application will be considered by Committee. Such Representations will still however be considered by the case officer in finalising their report and recommendation, provided he/she receives the Representation before submitting their report for authorisation or at least by noon on the day of the Committee (see paragraph 3.13 below).
- 2.6 Nothing in this Procedure interferes with the absolute right of the Director of Planning and Strategic Transport to refer an application or planning matter to Committee as prescribed by Part 3 of the Constitution.

### **Timescales**

#### Statutory Notification Period

- 2.7 The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires the local planning authority to publicise

applications for planning permission by site display in at least one place on or near the land to which the application relates for not less than 21 days or by serving a notice on any adjoining owner or occupier. There are also situations (in relation to “major” application, applications that are considered to depart from the provisions of the development plan and applications involving works to listed buildings and properties in conservation areas) where such development is advertised in the local press and by way of site notice(s) in vicinity of the relevant site. The local planning authority is obliged to comply with these statutory requirements.

- 2.8 It does not matter how someone gets to hear about a proposal, as anyone can submit Representations to the Development Management service. Representations on applications must be made in writing (letter or email) or via the Council’s web site. The time limit for doing this is specified on the site notice, press advertisement or the notification forwarded to adjoining occupiers/owners. Where applications are publicised through the service of a notice on an adjoining occupier or owner, those individuals will have 23 days to respond to this notification (to take into account the period for postage).
- 2.9 Where amended plans for an application have been accepted by the Council and if it is necessary to re-publicise them, the Council will undertake further application publicity. In the case of major applications, the local planning authority will display a new site notice on different coloured paper to the original so that local people can distinguish it. Local residents will be given a further 14 days to respond to any re-notification.
- 2.10 Amended plans are often negotiated in response to Representations. Whilst the Council may consider that an amendment it receives has overcome the Representations previously made, it might elect to advise local people of the changes (depending on the specific circumstances) to see whether they would like to make further Representations as follows:

If the amendments do overcome their concerns, they may write to confirm this, but the General Requirements below (paragraph 2.15) are designed to take account of such circumstances, so people do not have to take any further action.

- If someone has already made a Representation and the amendments do not overcome their concerns, they need to make further Representations to that effect.
- If the amendments raise new concerns, such further Representations should also be made.

#### Chair, Vice Chair, Ward and GLA Member and MP Timescales

- 2.11 All elected representatives will be notified by email about planning applications in respect of which they have a right of referral. The Chair and Vice Chair will be notified by email about planning applications in Croydon.

- 2.12 If the Chair, Vice Chair, a Ward Member, GLA Member or MP wishes to make Representations on the application they must respond by replying to the notification email within 23 days – to tie in with the period offered to adjoining occupiers/owners. This timescale may be extended in certain circumstances at the discretion of the Development Management Service to ensure that the timescales for elected representatives align with the deadlines set for members of the public. It is the intention that the Chair, Vice Chair and elected representatives will be notified at the same time as local residents.
- 2.13 Where the elected representative receives an additional notification email informing them about amendments to an application, the deadline for making further Representations by replying to the additional email notification within 14 days. Where the Member indicated in the initial notification that they wished the application to be referred to Committee for consideration and the amendment overcomes their concerns, they should respond to the email explicitly, withdrawing their wish for the Committee to consider the application. See paragraph 2.10 above for additional advice on amendments.
- 2.14 Representations on a planning application which are sent by email should be sent only to the email address on the notification email as other email addresses may not be monitored and the email may therefore not be actioned. Representations sent by post must be sent to the exact address specified on the notice or other written notification from the Council.

### **General Requirements**

- 2.15 Under this Procedure, a Representation is a letter or an email that meets all the following requirements:
- It is in response to an application that has been publicised by the Council.
  - It raises planning considerations that are material and related to the application.
- 2.16 Identical pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (i.e. each letter potentially being a single signature on a petition) for the purposes of deciding whether an application will be referred to Committee. See paragraphs 2.32 to 2.35 below for the Criteria for Petitions.

### **Committee Referral Criteria**

#### Chair/Vice Chair

- 2.17 An application may be reported to Committee where the Chair or Vice Chair has indicated that he/she wishes the application to be referred to Committee for consideration provided that indication is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.11 to 2.14 above).

### Ward Members

- 2.18 An application may be reported to Committee where the Member for the Ward within which the application site is situated or immediately adjoins the Member's Ward has made a Representation that additionally meets all the following Criteria:
- It is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.12 to 2.14 above).
  - The application is within, partly within or immediately adjoining the Member's Ward.
  - The Ward Member has stated that they either object to or support the application and given their reason(s).
  - The Ward Member has additionally clearly stated that they wish the application to be referred to Committee for consideration.
- 2.19 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is either for approval and the Ward Member has objected to the application or for refusal and the Ward Member has supported the application.
- 2.20 In order to address the Committee when the application comes to be determined, the Ward Member must have confirmed notification of their wish to address the Committee in accordance with paragraph 3.6 below.

### Greater London Assembly Member

- 2.21 An application may be reported to Committee where GLA Member has made a Representation that additionally meets all the following Criteria:

- It is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.12 to 2.14 above).
- It is an application for planning permission that is referable to the Mayor of London pursuant to the Town and Country Planning (Mayor of London) Order 2008 (or as subsequently amended or replaced).
- The GLA Member has stated that they either object to or support the application and given their reason(s).
- The GLA Member has stated that they either object to or support the application and given their reason(s).
- The GLA Member has additionally clearly stated that they wish the application to be referred to Committee for consideration.

As of May 2017, an application that is referable to the Mayor includes an application that involves:

- development of 150 residential units or more
- development over 30 metres in height (outside the City of London)
- development on Green Belt or Metropolitan Open Land

2.22 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is either for approval and the GLA Member has objected to the application or for refusal and the GLA Member has supported the application.

2.23 In order to address the Committee when the application comes to be determined, the GLA Member must have confirmed notification of their wish to address the Committee in accordance with paragraph 3.6 below.

#### Member of Parliament

2.24 An application may be reported to Committee where the MP for the constituency within which the application site is situated or immediately adjoins has made a Representation that additionally meets all the following Criteria:

- It is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.12 to 2.14 above).
- It is an application for planning permission that is referable to the Mayor of London pursuant to the Town and Country Planning (Mayor of London) Order 2008 (or as subsequently amended) (see paragraph 2.21 above).
- The application is within, partly within or immediately adjoining the MP's constituency.
- The MP has stated that they either object to or support the application and given their reason(s).
- The MP has additionally clearly stated that they wish the application to be referred to Committee for consideration.

- 2.25 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is either for approval and the MP has objected to the application or for refusal and the MP has supported the application.
- 2.26 In order to address the Committee when the application comes to be determined, the MP must have confirmed notification of their wish to address the Committee in accordance with paragraph 3.6 below..

#### Criteria for Resident Associations (RA)

- 2.27 To benefit from the provisions in these Criteria, a RA will need to be registered with the Development Management service. To be registered, the RA will need to supply a copy of its written constitution and that document would need to demonstrate that:
- It represents an area within the London Borough of Croydon that contains at least 50 residential properties and what that area is.
  - It holds regular elections for association officers.
- 2.28 An application may be reported to Committee where the RA has made Representations that additionally meet all the following Criteria:
- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.7 to 2.10 above).
  - The application is within, partly within or immediately adjoining the area that the RA covers.
  - The RA has stated that they object to the application and given their reason(s).
  - The RA has additionally clearly indicated that they wish the application to be referred to Committee for consideration so that they can address the Committee on their concerns.
- 2.29 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.
- 2.30 The right to refer applications under paragraphs 2.17 to 2.28 does not extend to minor material amendments or non-material amendments to existing planning permissions dealt with under section 73 or 96A of the Town and Country Planning Act 1990 (as amended) respectively, all applications submitted under the Town and Country Planning (General Permitted Development Order, advertisements, or minor extensions and alterations (including boundaries and rear outbuildings) involving less than 20 square metres of additional internal accommodation (gross internal). These application types will be determined by officers under delegated authority in all instances (see Part 3).

## Other Representations

- 2.31 An application may be reported to Committee where Representations have been received that additionally meet all the following Criteria:
- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.7 to 2.10 above).
  - It is from a person who lives at or operates from an address which is within the London Borough of Croydon.
  - The person has stated that they object to the application and given their reason(s).
  - At least 12 such Representations have been received from individual persons for each application.
- 2.32 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.

## Petitions

- 2.33 An application may be reported to Committee where one or more petitions (including pro-forma letters – paragraph 2.16 above) that meet the General Requirements for a Representation (paragraph 2.15 above) have been received that additionally meet all the following Criteria:
- Each Petition is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
  - Each Petition is from a person who lives at or operates from an address which is within the London Borough of Croydon.
  - Each Petition objects to the application and contains the reason(s) for this.
  - All such Petitions contain a total of at least 40 signatures with clearly readable and bona fide names and addresses from within the Borough of Croydon.
  - Where those who have signed a petition are well aware of the purpose and reasoning for signing the petition, which should be specific to material planning considerations only.
- 2.34 Petitions will not be accepted where the wording of the Petition has been varied, post those having signed the Petition. The wording of Petitions and pro forma letters will be published in full by the Council on its website.
- 2.35 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.
- 2.36 Where such Petition(s) (including pro-forma letters – paragraph 2.16 above) contain less than 40 such signatories, they will collectively be treated as forming

a single Representation for the purposes of deciding whether an application will be referred to Committee.

### **3 PUBLIC SPEAKING PROCEDURE**

3.1 For applications for planning permission for the following development types, a speaking slot shall be a maximum of five minutes each:

- a residential development containing 200 or more new dwellings or, where the number of dwellings is not given, the site area is 4 hectares or more; or
- the erection of a building or buildings with a gross floor space of 10,000 square metres or more or, where the floor space is not given, the site area is 2 hectares or more.

3.2 For all other items, a speaking slot shall be a maximum of three minutes each.

3.3 Subject always to the notification and registration requirements in paragraphs 3.6 and 3.8 there are up to five separate speaking slots in the following order allocated to:

1. Objectors/Residents Associations
2. The applicant or his/her agent/representative/supporters – hereinafter referred to as the Applicant
3. The Member of the Greater London Assembly for the constituency within which the application site is situated where they have clearly indicated that they wish to address the Committee in accordance with the Committee Referral Criteria
4. The MP for the constituency within which the application site is situated (or immediately adjoins) where they have clearly indicated that they wish to address the Committee in accordance with the Committee Referral Criteria
5. A Member for the Ward within which the application site is situated or immediately adjoins who has clearly indicated that they wish the application to be referred to Committee for consideration in accordance with the Committee or (b) has clearly indicated that they wish to address the Committee regarding a major application which has automatically been referred to Committee

3.4 Where a planning application is reported on the “Planning Applications for Decision” part of the agenda, all of the individuals and organisations who have expressed views (by letter or email) on the application will be sent a letter/email that informs them that the application will be considered by Committee. The applicant (or his/her agent) will be sent a similar letter/email. The Ward Member, GLA Member and MP (where appropriate) will also be sent such a letter/email. The letter/email will also explain the provisions regarding public speaking.

3.5 Requests to address Committee will not be accepted prior to the publication of the agenda.

## Notification

- 3.6 Any Objector or Applicant or elected representative (i.e. a referring Ward Member, GLA Member or MP) who wishes to address Committee must notify the Democratic Services Manager by 4pm on the Tuesday prior to the day of the meeting or, where the meeting is held on a day other than a Thursday by 4pm two working days before the meeting. Email or telephone should be used for this purpose. In the case of an Objector or Applicant, this communication should provide the name and contact details (email address and/or phone number) of the intended speaker so that changes in arrangements can be communicated. In addition, in the case of Objectors if they individually agree, contact details will be shared so that where more than one person has registered to speak, contact can be made to resolve either who will address the Committee or how they will divide up the allocated speaking slot. Where more than one Objector, Ward Member or MP has registered to speak, the provisions of paragraphs 3.9 and 3.10 will apply. Failure to comply with these requirements will prevent the speaker from addressing the Planning Committee
- 3.7 If a public speaker needs special arrangements (such as an interpreter) this must be brought to the attention of the Democratic Services Manager when notifying him/her of their wish to speak so that arrangements can be put in place.

## Registration

- 3.8 On the night of the Committee meeting:
- Objectors and Applicants who have notified the Democratic Services Manager that they wish to address the Committee in accordance with paragraph 3.6;
  - A Ward Member, GLA Member or MP who have clearly indicated that they wish to address the Committee in accordance with the Committee Consideration Criteria above and paragraph 3.6;

must register their attendance at the Town Hall with the Democratic Services representative in attendance at the meeting at least 15 minutes before the meeting starts.

- 3.9 Where more than one Objector has registered to speak and the arrangements have not been resolved in advance, the Democratic Services Manager will inform the parties involved as they register so that they can decide either who will address the Committee or how they will divide up the allocated speaking slot. Objectors are expected to come to an agreement between themselves on this. Where Objectors cannot come to an agreement, the Chair will be notified of this through the Democratic Services Manager and the Chair will decide who will be accorded the right to speak. Preference will normally be given to those who are potentially most affected by the planning application and particularly those closest to the application site. The Chair may take advice from officers in making this decision. In order to ensure the most efficient progress of

Committee business on the evening, the decision of the Chair will be final and not be the subject of further debate, including in the Committee.

- 3.10 If more than one Ward Member or MP indicates that they wish to speak, they will share the speaking slot equally, unless they agree a different distribution of the time.
- 3.11 If a Ward Member wishes to speak but is unable to attend the Committee, they may nominate a substitute Member representing the same Ward, or a neighbouring Ward, to address the Committee on their behalf. If a referring Ward Member (or substitute Ward Member), GLA Member or Local MP has not registered to speak by 4pm on the Tuesday prior to the day of the meeting or, where the meeting is held on a day other than a Thursday, by 4pm two working days before the meeting (see paragraph 3.6 above) or who has registered to speak does not attend the Committee and there are no other reasons for Committee consideration, the application will be referred back to the Director of Planning and Strategic Transport for delegated decision.

### Speaking

- 3.12 All those involved in public speaking are restricted to an oral presentation only. The officers' slide presentation is therefore not available for use by public speakers.
- 3.13 If a speaker, or any other member of the public, wishes to bring additional representations or other material beyond those which they have already submitted to the Committee's attention, they need to supply it to the Development Management service. This needs to be done by, at the latest, noon on the day of Committee, to be included in the Addendum Report (see paragraphs 5.6 to 5.10 below for procedures, limitations and deadlines). The distribution of additional material or information to Members of the Committee is not prohibited but objectors and supporters should be aware that although they may have sent information directly to Members of the Committee via email or other means, the Members are not under an obligation to consider the information and may not have an opportunity to review such material. Members of the public are therefore encouraged to ensure they send their correspondence directly to the Development Management service.
- 3.14 Following the completion of a speaker's address to the Committee, that speaker shall take no further part in the proceedings of the meeting unless permitted to do so by the Chair of the Committee.

### **MP, GLA Member and Ward Members**

- 3.15 An MP, GLA Member or Ward Member may address the Committee in accordance with the Procedures and must additionally:
- declare, before making their speech, details of any material contact with the applicant, agent, adviser, neighbour, objector or other interested party and

whether or not the speech is made on behalf of such person(s) or any other particular interest;

- sit separately from the Committee Members, so as to demonstrate clearly that he/she is not taking part in the discussion, consideration or vote; and not communicate in any way with Members of the Committee or pass papers or documents to them during the meeting.

In relation to Ward Members:

- be aware that if they have a disclosable pecuniary interest, other registrable interest or non-registrable interest, they may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary interest, other registrable or non-registrable interest if they have been granted a dispensation for this purpose.

### **Committee Member wishing to speak as a Ward Members**

- 3.16 A Ward Member, who is also a Member of the determining Committee, may address the Committee in accordance the Public Speaking Procedure set out above but, where they do so, they cannot take part in the debate or vote on the application they have referred. They may address the Committee on their referral in accordance with the above procedures provided they do not have a disclosable pecuniary interest in the matter. Where the Member has a disclosable pecuniary interest, other registrable or non-registrable interest, the Member may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary, other registrable or non-registrable interest if they have been granted a dispensation for this purpose.

### **Chair's Discretion**

- 3.17 At the discretion of the Chair, such as in the interests of natural justice or in exceptional circumstances, the public speaking procedures may be varied. The reasons for any such variation shall be recorded in the minutes. The number of objectors or supporters would not, of itself, be a factor. If changes are made to the speaking times, the Applicant will be offered the same time to speak as Objectors.

## **4 FORMAT OF COMMITTEE AGENDA**

- 4.1 The Committee's agenda may contain the following three sections for planning reports:
- **Development presentations:** to enable the Committee to receive presentations on proposed developments, including when they are at the pre-application stage. These items do not normally attract public speaking rights, other than at the Chair's discretion.
  - **Planning applications for decision:** these items attract public speaking rights as detailed above.

- **Other planning matters:** non-application matters that require Committee consideration (such as an Article 4 Direction, policy papers or a consultation from Government) or reports that are for information only. These items do not normally attract public speaking rights, other than at the Chair's discretion.

## 5 REPORTS

- 5.1 Each planning application for decision is the subject of a written report with an officer recommendation. Reports will be produced in a standard form provided by the Director of Planning and Strategic Transport and will identify and analyse the material considerations, of which the Committee will need to take account when considering the application on the planning merit.
- 5.2 In addition to the written report, illustrative material will usually be presented by officers at the meeting to explain the scheme.

### Recommendations

- 5.3 The recommendations in the reports to Committee do not set out the full wording of planning conditions, reasons for refusal, informatives and planning obligations, but are a summary of them. There are two reasons for this:
- it communicates the details of the recommended decision more clearly to Members than many pages of detailed conditions or grounds; and
  - there can sometimes be a delay before a decision is issued (such as waiting for the signing of a legal agreement or views from the Mayor of London and/or the National Planning Case Unit) and something may arise which necessitates an amendment, a deletion or an addition (including the use of pre commencement conditions).
- 5.4 Delegated powers are therefore given to the Director of Planning and Strategic Transport (Responsibility for Functions at Part 3 of the Constitution) to communicate the detailed wording to applicants. In addition, where the wording of a condition/ground/informative/obligation has been amended, a new condition/ground/informative/obligation introduced or an existing condition/ground/informative/obligation deleted either at the meeting by the Committee or subsequent to the meeting by the Director, the Director will be responsible for finalising the wording. This obviates the need for further reference to Committee and delay to the process.
- 5.5 The exercise of this delegated power by the Director is limited to circumstances where the change(s) could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the Committee.

## **Addendum Report**

- 5.6 It is common for material (such as late representations) to be received by the Development Management service after the close of the agenda. Such material will be placed on the public planning file along with all the other papers for the application, subject only to any public exclusion restrictions. Where this material needs to be brought to the attention of the Committee so that it can be taken into account, it will be presented in written form in the Addendum Report. It will comprise a summary of whatever has been raised, in the same way as representations are summarised in the main Committee report.
- 5.7 The Head of Democratic Services and Scrutiny will email the Addendum Report to Planning Committee members as soon as it is ready.
- 5.8 The practicality of producing such a report means there has to be a cut-off point for the receipt of late material by the Development Management service, which is noon on the day of the meeting. Generally material received after this time will not be reported to the Committee. The Director of Planning and Strategic Transport has an absolute discretion in this regard.
- 5.9 Material must not be distributed to Committee Members by members of the public (including public speakers) or other Members of the Council during the course of the meeting. The distribution of such material should be done in advance of the meeting in accordance with 3.13 above.
- 5.10 The points raised in representations about a particular application, which are received prior to the cut-off point (paragraph 5.8 above) are summarised either in the main Committee report or in the addendum report.

## **6 ORDER OF PROCEEDINGS**

- 6.1 Except as otherwise stated on the agenda, generally meetings take place at the Town Hall in Katharine Street (CR0 1NX). The time the meeting is expected to begin will be stated on the agenda papers. Where any item is on the agenda only because it has been referred by a Ward Member, GLA Member, MP or Resident Association and none of the referring person(s)/organisation(s) or their representative(s) have registered their attendance at the Town Hall in accordance with paragraphs 3.6 and 3.8 and notwithstanding the fact that other parties may have also registered to speak, the item will revert to the Director of Planning and Strategic Transport to deal with under delegated powers and not be considered by the Committee.
- 6.2 At the discretion of the Chair, the agenda may be re-ordered at the meeting.

### **Development Presentations**

- 6.3 The procedure for considering each item shall be as follows:

- the developer will present their scheme for no longer than 15 minutes unless the Chair, exercising his/her discretion, has allowed a longer period; and through the Chair, Committee Members may ask questions.
- A Ward Councillor (who is not a member of the Planning Committee) may address the Planning Committee for up to 5 minutes to present a local viewpoint on the development presentation. This may be either before or after the questions referred to above. In the latter case, additional questions may be asked by the Chair or Committee Members to address new points raised by the Ward Councillor. Ward Councillors within whose Ward the emerging development is proposed will be contacted by the Development Management service by email and the Ward Councillor will be required to contact the Democratic Services Manager by 4pm on the Tuesday before the Committee meeting to advise whether he/she is attending (or, where the meeting is held on a day other than a Thursday by, 4pm two working days before the meeting). Where more than one Ward Councillor wishes to address the Planning Committee, the 5 minute slot will be shared
- At the end of this process, the Chair or Senior Planning Officer will summarise the issues, points and questions raised

### **Planning Applications for Decision**

6.4 The procedure for considering each application shall be as follows:

- the Director of Planning and Strategic Transport, or his/her representative, will introduce the development the subject of the application;
- through the Chair, Committee Members may ask questions of clarification;
- public speaking in accordance with the Public Speaking Procedure above
- the Director of Planning and Strategic Transport or his/her representative, will present the report, outline the reasons for the officer recommendation and will respond (as appropriate) to comments raised by the Speakers; and
- the Committee will then consider the item and reach a decision.

### **Other Planning Matters**

6.5 The procedure for considering each item shall be as follows:

- the Director of Planning and Strategic Transport, or his/her representative, will present the report and introduce the main issues;
- through the Chair, Committee Members may ask questions of clarification; and  
the Committee will consider the report and either note the content or reach a decision (as required).

### **Other Procedural Issues**

6.6 Where a decision is made on an agenda item, in order to be able to vote a Committee Member must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking.

- 6.7 The minutes of the meeting will record the Members and officers present at the meeting and record any disclosures of interest made by Members or officers. For each item, the minutes will record the identify of any public speakers and the decisions.
- 6.8 Meetings of the Planning Committee and Planning Sub-Committee shall ordinarily conclude by 10:00pm. In the event that there is remaining business at 9.55pm the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes.
- 6.9 At a meeting of the Planning Committee, if Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, any item of the agenda that has not started to be considered by the Committee is delegated to the Director of Planning and Sustainable Regeneration to determine along the lines set out in the Committee report, unless the Committee has already voted (on a two thirds majority) to defer or adjourn the non-determined item earlier in the meeting.
- 6.10 At a meeting of the Planning Sub-Committee, if Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, any item of the agenda that has not started to be considered by the Committee is delegated to the Director of Planning and Sustainable Regeneration to determine along the lines set out in the Committee report.

### **Role of the Committee Chair**

- 6.11 With the assistance and support of officers, the Chair of the Planning Committee/Sub Committee is responsible for the good and orderly running of Planning Committee/Sub Committee meetings. The Chair aims to ensure, with the assistance of officers where necessary, that the meeting is run in accordance with the provisions set out in the Council's Constitution and particularly Part 4K of the Constitution. The Chair's most visible responsibility is to ensure that the business of the meeting is conducted effectively and efficiently. This includes several components:-
- determining the order in which questions may be addressed from the Committee members following the officers presentation;
  - ensuring that the Public Speaking Procedure is followed which allows time slots specified timeslots for Applicants, Supporters, Objectors, Ward Members, GLA Members and Members of Parliament to address the Committee where relevant criteria are met;
  - managing the Committee members debate about applications including the order in which Members who wish to address the Committee may speak;
  - determining when the debate has come to a close and votes should be cast in the order in which the motions were first completed (i.e. where the motion has been moved and seconded by Members of the Committee).
  - Ensuring that debate is suitably focussed on relevant planning considerations.

- 6.12 The Chair has discretion in the interests of natural justice to vary the public speaking rules where there is good reason to do so and such reasons will be minuted.
- 6.13 The Chair is also charged with ensuring that the general rules of debate are adhered to (e.g. Members should not speak over each other) and that the debate remains centred on relevant planning considerations.
- 6.14 Notwithstanding the fact that the Chair of the Committee has the above responsibilities, it should be noted that the Chair is a full member of the Committee who is able to take part in debates and vote on items in the same way as any other Member of the Committee. This includes the ability to propose or second motions. It also means that the Chair is entitled to express their views in relation to the applications before the Committee in the same way that other Members of the Committee are so entitled and subject to the same rules set out in the Council's constitution and particularly Planning Code of Good Practice.

### **Role of Committee Members**

- 6.15 The role of Members of the Planning Committee is to make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons. In doing so Members should have familiarised themselves with Part 5D of the Council's Constitution 'The Planning Code of Good Practice'. Members should also seek to attend relevant training and briefing sessions organised from time to time for Members
- 6.16 Members are to exercise their responsibilities with regard to the interests of the London Borough of Croydon as a whole rather than with regard to their particular Ward's interest and issues.

## **7 DECISION MAKING**

7.1 In making a decision on a planning application a Committee Member must:

- Come to meetings with an open mind.
- Comply with the procedures set out in this Part 4k of the Constitution.
- Not allow anyone (except officers, other Committee Members and public speakers when they are addressing the Committee) to communicate with them during the Committee's proceedings (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact before the meeting starts.
- Consider the advice that planning, legal or other officers give the Committee in respect of the recommendation or any proposed amendment to it.
- Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision.

- Come to their decision only after due consideration of all of the information reasonably required to base a decision upon. This will include the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If they feel there is insufficient time to digest new information or that there is insufficient information before them, then they should seek an adjournment to address these concerns.
- Not vote on a proposal unless they have been present to hear the entire debate, including the officers' introduction and any public speaking.
- Make sure that if they are proposing, seconding or supporting a decision contrary to the officer's recommendation or the Development Plan, that they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other officers give them. Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of challenge.

7.2 The Council is expected to make a decision on all applications within statutory timescales. Whilst this may not always be possible, particularly for applications that are to be considered by Committee, applications are always included on the agenda of the first available Committee after completion of the officer's report so that a decision can be taken in the shortest possible time. For this reason, Members should avoid requests for officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.

## **8 VOTING PROCEDURES**

8.1 The Chair will bring the Committee to a vote when he/she considers that there has been sufficient debate of an item.

8.2 For any motion to be successful there needs to be a majority vote in favour of that motion. In the event of a deadlock (ie equality of votes) the Chair may exercise his/her casting vote. This can be done irrespective of whether or not the Chair has already voted on that motion.

### **When There Are Two Motions**

8.3 If there are two motions before the Committee, each motion needs to be considered separately. When a motion has been moved and seconded, it becomes a complete motion. The motion which is completed first should be considered first.

8.4 If the first motion is successful (ie the vote is for it) the second motion automatically falls.

8.5 If the first motion is unsuccessful (ie the vote is against it) it falls and is thereby extinguished. Members then move to voting on the second motion.

- 8.6 To enable officers to give the Committee the best advice and to allow the business to run efficiently, it is preferable for the recommendation set out in the report to be moved and voted on first (unless a motion is made and seconded to defer or adjourn consideration of a particular item, for example for a site visit or further information/advice).
- 8.7 Amendments to the recommendation (such as an additional condition) may be made in the normal manner (as prescribed in the Non-Executive Committee Procedure Rules part 4 of the Constitution).

### **Officer's Advice**

- 8.8 If the recommendation is not supported, before a new motion to either grant or refuse the application is proposed the Committee must first receive advice from the Director of Planning and Strategic Transport, or his/her representative, as to what form a new motion could take. That advice will be based upon the material considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge. The solicitor advising the Committee will be called upon as necessary to give advice on legal matters.
- 8.9 If the officer considers that he/she is unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the officer can bring a report to the next available Committee setting out his/her advice.

### **Decisions Contrary to the Development Plan**

- 8.10 The law requires that where the Development Plan is relevant, decisions must be taken in accordance with it unless there are good planning reasons to do otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). If a Committee intends to approve an application which is contrary to the Development Plan, the material considerations must be clearly identified and the justification for overriding the Development Plan clearly demonstrated. The application will have to be advertised in accordance with Article 13 of the Town and Country Planning (Development Management Procedure) Order 2010 and, depending upon the type of development proposed, may also have to be referred to the Department for Communities and Local Government.
- 8.11 If the recommendation in the officer report would be contrary to the Development Plan, the justification will be included in that report.
- 8.12 If, having considered the report, the Committee decides to determine the application contrary to the Development Plan, a detailed minute of the Committee's reasons, which as a matter of law must be clear and convincing, shall be made and a copy placed on the application file.

## **9 SITE VISITS BEFORE A COMMITTEE MEETING**

- 9.1 It is advisable that Members are familiar with the sites of the applications on the agenda to enable them to make informed decisions on the planning applications before them and to avoid deferring or adjourning those decisions pending site visits.
- 9.2 Where Members visit the site themselves before the meeting, care must be taken to ensure that they comply with the Planning Code of Good Practice (part 5D of the constitution). Such visits should be carried out discreetly and Members should avoid making themselves known to the applicant or to neighbours. Accordingly Members should not go onto the actual application site or into a neighbouring property. The reason for this is that contact between a Member of the Committee and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. If such contact is made this should be declared in Committee, but this should not prevent that Member from taking part in the consideration of that application, provided that the Member has followed the advice in the Planning Code of Good Practice and acts in accordance with the Members' Code of Conduct.

## **10 FORMAL SITE VISITS BY THE COMMITTEE**

- 10.1 A formal site visit will be arranged where the Committee have resolved, on a majority vote, to visit the site. Site visits should only be selected where there is a clear and substantial benefit to be gained. The Director of Planning and Strategic Transport may recommend that the Committee should conduct a site visit.
- 10.2 The procedure for formal site visits by the Committee shall be as follows:
- Any of the Members and substitute Members of the Committee and officers can attend a site visit.
  - Arrangements for visits will not normally be publicised or made known to applicants, agents or third parties.
  - Where permission is needed to go onto land, contact will be made with the owner by officers. The owner cannot take any part in the visit, other than to effect access onto the site.
  - The purpose of a site visit is to enable Members to inspect the site and to better understand the impact of the development. The Committee should not receive representations or debate issues during a site visit.
  - An application cannot be determined at a formal site visit by a Committee and must be considered at the next appropriate meeting of the Committee.
  - The Democratic Services Manager will make a note of the site visit and it will be included in the Addendum Report.
  - Failure to attend a formal site visit shall not bar a Member from voting on an item at the Committee meeting that considers it, provided the Member is satisfied that he/she is sufficiently familiar with the site.

10.3 When a site visit has taken place, Members are reminded about the principles referred to above under the heading 'Order of proceedings' concerning the need to have heard the whole of a planning application before taking part in the voting.

## **11 AMENDMENTS/ VARIATION**

11.1 Where amendments/variation to these part of the Constitution is necessary due to legislative changes, the Monitoring Officer may make such consequential changes as are necessary to take such changes into account