

APPENDIX 1

Extract from Part 2B of the Constitution

PLANNING COMMITTEE

Explanatory Note

This Committee exercises the Council's functions in relation to highways matters and development control (**PROVIDED THAT** those development control matters have been referred to Committee by agreement between the Nominated Officer and the Nominated Member in accordance with Schedule 2 of Part 2H of this Constitution).

- 1.1 To consider and determine applications submitted under the Planning Acts for planning permission, ~~permission in principle, technical details consent~~, listed building consent, and reserved matters pursuant to major planning applications.
- 1.2 To consider and determine applications for the display of advertisements submitted under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- 1.3 ~~To determine whether prior approval applications for the construction, installation, alteration or replacement of telecommunications masts submitted under Part 24 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 should be granted or refused.~~
- 1.4 ~~To exercise any other function of the Council under the Planning Acts whether as a local planning authority or otherwise which may be referred to it by the Corporate Director City Services or other officer authorised by them.~~
- 1.5 To determine any highways matter under the Highways Act 1980 which may be referred to it by the Corporate Director City ~~Services~~Operations.

- 1.6 To determine any other matter of fact or law relating to a right of way or the Council's Definitive Map and Statement under the Wildlife and Countryside Act 1981 referred to it by the Corporate Director City Operations.

NOTE:

Details of the types of matters that may be referred to Planning Committee by the Nominated Officer and the Nominated Member are set out in Part 2H of this Constitution.

The Council may approve a restricted pool of Members to serve as members or substitute members of the Committee, all of whom have undergone basic training and continue to undergo the mandatory training for such Members. The mandatory training will take place at least ~~twice~~ once a year. Where such a pool has been approved, any meeting of the Committee must comprise only Members from the pool; no substitution by non-pool Members will be allowed.

APPENDIX 2

Extract from Part 2F of the Constitution

PLACE

5.9. Local Land Charges

To exercise the Council's functions in relation to local land charges, including:-

- The functions under the Local Land Charges Act 1975 and the Local Government (Miscellaneous Provisions) Act 1982, Section 34; and
- The fixing of fees under the Local Authorities (Charges for Property Searches) (England) Regulations 2008

5.10 Town & Country Planning

To determine applications in planning matters in accordance with the arrangements described in a detailed way in Part 2H of this Constitution

~~5.10. Town and Country Planning~~

~~To determine applications in relation to matters listed under Part I of Schedule 3 to this Scheme of Delegation having regard to the Council's relevant planning policies and published guidelines.~~

~~PROVIDED THAT the powers delegated under the above shall NOT apply where:—~~

- ~~(a) — The specified number of individual written objections relating to material planning considerations pertinent to the application in question have been received within the public consultation period from separate persons or bodies in relation to applications that officers are minded to approve, or where the specified number of individual written expressions of support from separate bodies or persons have been received within the public consultation period in relation to applications that officers are minded to refuse. Only written objections or expressions of support received from persons who live in the immediate vicinity of the application site or who otherwise may~~

~~reasonably be considered to be potentially directly affected by the proposed development will be taken into account in determining the relevant number of representations required by this paragraph. For the purposes of this sub-paragraph “the specified number” shall be ten or more for applications falling within sub-paragraphs (1) (a) to (d) (inclusive) of Part I (“major applications”) and shall be five or more for applications falling within sub-paragraph (1) (e) and paragraphs (2) to (5) (inclusive) of Part I.~~

~~PROVIDED THAT in relation to major applications where the application would not otherwise be determined by the Planning Committee as a consequence of the above, the application in question shall be referred to Planning Committee for determination should the Chair of Planning and/or any of the Opposition Spokespersons deem it appropriate. The Head of Planning will consult with the Chair of Planning and the Opposition Spokespersons for this purpose; or~~

~~(b) — The Conservation Advisory Group (CAG) or Disabled Access Advisory Group (DAAG) requests, within the public consultation period, that an application be determined by the Planning Committee. In making the request CAG or DAAG shall state whether it would be seeking an approval or refusal of the application. If Officers’ determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn; or~~

~~(c) — A Member requests, within the public consultation period, that an application within their ward be determined by the Planning Committee. In making that request, the Member shall state whether they would be supporting an approval or refusal of the application and shall give their reason or reasons in writing as to why they consider the application~~

~~should be determined by Committee and shall set out their representations on the application as part of their request. Members making such requests may attend and address the Committee when the application falls to be determined or may ask for their representations to be read out at the meeting. If Officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn. (N.B. In any case where the Member is also a member of the Planning Committee and the application is referred to the Committee for determination, they will, if present, having exercised their right to make an oral representation to the Committee, need to leave the meeting during the consideration of the application); or~~

~~(d) Rottingdean Parish Council requests, within the public consultation period, that an application within the Parish Council area be determined by the Planning Committee. In making the request the Parish Council shall state whether it would be seeking an approval or refusal of the application. If Officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn; or~~

~~(e) The application is an application for Listed Building Consent relating to any of the following:~~

- ~~• Booth Museum, 194 Dyke Road;~~
- ~~• Brighton Bandstand, Kings Road;~~
- ~~• Brighton Corn Exchange;~~
- ~~• Brighton Dome Theatre, Church Street;~~
- ~~• Brighton Museum and Art Gallery;~~
- ~~• Duke of York's Cinema, Preston Circus;~~

- ~~• Hove Library, Church Road;~~
- ~~• Hove Museum and Art Gallery;~~
- ~~• Saltdean Lido;~~
- ~~• Royal Pavilion;~~
- ~~• Preston Manor.~~
- ~~• To exercise the Council's functions in respect of certificates of lawful use, tree preservation orders, enforcement action etc. as more particularly set out in Part II of Schedule 3 to this Scheme of Delegation to Officers.~~

5.11. Building Control

To exercise the Council's functions regarding building control

5.12. Developer Contributions

To exercise the council's functions in its capacity as a local planning authority

in relation to developer contributions in accordance with the arrangements described in Part 2H of this Constitution. ~~in respect of the following:~~

- ~~a) legal obligations imposed pursuant to the Town and Country Planning Act 1990 (as amended), and~~
- ~~b) in its capacity as the charging and collecting authority for the purposes of the Community Infrastructure Levy (CIL), pursuant to the CIL Regulations 2010 made under the Planning Act 2008 (as amended).~~

~~Note: For the avoidance of doubt, a) and b) shall include all steps considered necessary and incidental to perform these functions, including but not limited to the following: the calculation of the amount of contribution to be requested including the assessment of claims for the exemption and relief of CIL; the enforcement of all liabilities; the collection, monitoring and~~

~~distribution of contributions (s106 only) all steps up to and including any appeal.~~

5.13. Heritage

To exercise the Council's functions with regard to conservation matters under the Town and Country Planning Acts in accordance with the arrangements described in Part 2H of this Constitution.

5.14. Assets of Community Value

To exercise the Council's functions in relation to Assets of Community Value, pursuant to the Localism Act 2011 in accordance with the arrangements described in Part 2H of this Constitution.

Note : the power to hear appeals in relation to Assets of Community Value may also be exercised by the Director Governance & Law.

5.15. Regeneration

- To lead on regeneration activity to improve the area of Brighton & Hove, including (but not only) in relation to the physical renewal of buildings, spaces and communities.
- All other functions relating to regeneration including Housing Estate Regeneration and Place-Making Design.

5.16. Major Projects

- To exercise the Council functions regarding major projects (including major regeneration, building, infrastructure or other projects).

5.17. Net Zero

- To exercise the Council's role and response in relation to sustainability issues, such as reducing carbon emissions, projections of a changing

climate locally, improving resource efficiency and developing sustainable energy.

SCHEDULE 3

Functions delegated to the Corporate Director – City Operations in relation to Planning:

Part I

~~(1) To determine planning applications and applications to vary or delete conditions attached to planning permissions (including, where relevant, identifying the need for and the settling of terms of Planning Obligations under s106 of the Town and Country Planning Act 1990, the imposition of conditions where consent is granted and the renewal of existing permissions) where the applications relate to the following categories of development:-~~

~~(a) the provision of dwellinghouses where—~~

~~(i) the number of dwellinghouses to be provided is 10 or more; or~~

~~(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and the number of dwellinghouses to be provided is not known;~~

~~(b) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more;~~

~~(c) development carried out on a site having an area of 1 hectare or more;~~

~~(d) operational development designed to be used wholly or mainly for the purpose of, or material change of use to, treating, storing, processing or disposing of refuse or waste materials;~~

~~(e) development not listed in sub-paragraphs (a) to (d) above (inclusive)~~

~~(2) Applications for permission in principle.~~

~~(3) Applications for technical details consent (including identifying the need for and the settling of terms of Planning Obligations under S106 of the Town and Country Planning Act 1990 and the imposition of conditions where consent is granted).~~

~~(4) Applications for consent under the Advertisements Regulations.~~

~~(4) Applications for Listed Building Consent.~~

~~(5) To undertake all consultations, notifications and publication of advertisements on behalf of the Council in relation to any of the matters listed above. **Part II**~~

~~(1) To determine applications for certificates of lawfulness of existing or proposed uses or development under sections 191 and 192 of the Town and Country Planning Act 1990.~~

~~(2) To make Tree Preservation Orders and Provisional Tree Preservation Orders and, unless valid objections are received, to confirm such orders in accordance with statutory requirements.~~

- ~~(3) — To determine applications for works to, and the felling of, trees included in Tree Preservation Orders and in Conservation Areas.~~
- ~~(4) — After consultation with the Director Governance & Law:-
 - ~~a. (a) (b) to take enforcement action in all or any planning-related functions of the Council, including but not limited to the service of formal notices and consents in relation to planning contraventions, as well as enforcement action in relation to tree preservation order, conservation and listed building issues, and to authorise the institution of legal proceedings where necessary;~~
 - ~~b. to authorise the removal of enforcement notices from the Local Land Charges Register where appropriate.~~~~
- ~~(5) — To determine detailed submissions pursuant to conditions on planning permissions; and to determine reserved matters applications pursuant to minor and other non-major planning applications.~~
- ~~(6) — To determine applications for non-material amendments to approved schemes.~~
- ~~(7) — To determine applications for Certificates of Appropriate Alternative Development pursuant to section 17 of the Land Compensation Act 1961.~~
- ~~(8) — To submit observations on behalf of the Local Planning Authority in respect of consultations (on planning matters) by government departments, other Local Authorities, Local Government Associations and statutory or regulatory bodies.~~
- ~~(9) — To determine on behalf of the Council applications for prior approval where such determinations are required under the Town and Country Planning (General Permitted Development) Order 1995 (as amended).~~
- ~~(10) — To exercise the Council's functions in respect of Environmental Impact Assessment screening / scoping under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and in respect of the Environmental Assessment of Plans and Programmes Regulations 2004.~~
- ~~(11) — To undertake all consultations, notifications and publication of advertisements on behalf of the Council in relation to any of the matters listed above.~~
- ~~(12)(1) — To exercise the Council's powers to decline to determine subsequent, overlapping and retrospective applications as defined in sections 70A to 70C of the Town and Country Planning Act 1990~~

APPENDIX 3

**PLANNING SCHEME OF DELEGATION & PLANNING SCHEME OF
MANAGEMENT.**

Part 2H Planning Scheme Of Delegation

Planning Scheme of Delegation

1 Introduction

- 1.1 Reference to Regulations in this document is a reference to the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.

2 Delegation Of Planning Functions

- 2.1 All planning matters and functions that the Council as Local Planning Authority are responsible for are delegated to the Corporate Director City Operations who may delegate such matters to the Director Place and in turn the Head of Planning except where the decision on a matter or function is reserved to the following bodies:

Full Council

- 2.2 The following planning matters must be determined by Full Council:

- To submit a Development Plan Document for examination
- To approve or adopt a Development Plan Document
- To adopt a Supplementary Planning Document
- To submit a draft Community Infrastructure Levy Charging Schedule for examination
- To approve or withdraw a Charging Schedule

Executive

- 2.3 The following must be determined by the Executive (or “Cabinet”):

- To consult on a Local Development Framework Document
- To adopt the Local Development Scheme or the Statement of Community Involvement
- To approve a Supplementary Planning Document
- To approve the Authority Monitoring Report
- To authorise a Neighbourhood Plan to be put to referendum
- To agree that a Neighbourhood Plan be Made

- To designate a Conservation Area

Planning Committee

- 2.4 The following planning applications must be determined by the Planning Committee:
- Those applications listed in Part 2 of Schedule 2 herein that the Nominated Member and the Nominated Officer agree that referral to and determination by the Planning Committee is necessary.
 - Any other planning matter that an officer of the authority with delegated powers considers that referral to and determination by the Planning Committee is necessary.

Delegation and Sub-Delegation

- 2.5 This Planning Scheme of Delegation should be read in conjunction with the Introduction to the Scheme of Delegations to Officers (Part 2F).
- 2.6 In accordance with Clause 1, paragraph 1.7 of Part 2F the Corporate Director City Operations delegates authority to the Head of Planning in respect of all matters/function listed in Schedule 1 and Schedule 2 Part 1 of this Planning Scheme of Delegation which are not referred to Planning Committee for determination.
- 2.7 The Planning Scheme of Management has been produced for the purposes of Regulation 3. It is appended to this Planning Scheme of Delegation at Appendix A and clearly sets out:
- A. the member of the authority who acts as the Nominated Member;
 - B. one or more members of the authority who act as a substitute for the Nominated Member;
 - C. the officer of the authority who acts as the Nominated Officer; and
 - D. one or more officers of the authority who act as a substitute for the Nominated Officer.

2.8 With respect to A and B different members can be nominated for different purposes. With respect to C and D different officers can be nominated for different purposes. These are set out in Appendix A.

2.9 The Planning Scheme of Management also sets out:

- the officer(s) of the authority who have delegated powers to determine a Schedule 1 planning application (Regulation 4);
- the officer(s) of the authority who have delegated powers to determine a Schedule 2 planning application (Regulation 5);
- the officer(s) of the authority who have delegated powers to determine an Own-Interest Application (Regulation 6); and
- the officer(s) of the authority who have delegated powers under the Constitution to determine any other planning matter.

Note: An Own-Interest Application is one where:

(a) the application is made (whether or not jointly with any other person) by or on behalf of:

- (i) that authority,
- (ii) a member of that authority, or
- (iii) an officer of that authority, or

(b) in the view of the Nominated Member and the Nominated Officer, the authority or any of its members or officers otherwise has an interest in the application.

2.10 The Protocol for Members Regarding Planning Applications and the Protocol for Planning Committee are located at Part 4E and Part 4E1 of the Constitution respectively.

Lobbying

- 2.11 The Nominated Member or the Nominated Officer or any other member or officer of the authority, when exercising their powers under Regulations 4, 5 or 6 and this Scheme of Delegation, shall not be lobbied or otherwise contacted by any person or organisation, including by members or officers of the relevant authority, to use their power in a particular way.
- 2.12 Any such lobbying that is received should be reported to the Monitoring Officer, who will investigate as appropriate.

3 Planning Committee - Terms of Reference

Membership

- 3.1 Membership of the Planning Committee shall not exceed 13 elected members (to be politically balanced) and consist of no fewer than 3 members to be quorate.

Purpose

- 3.2 To exercise, in line with the Protocol for Planning Committee at 4E1 the functions, powers and duties of the Council in relation to the determination of planning applications and any other planning or highways matter referred to it in accordance with this Part.

Powers

- 3.3 The Planning Committee has the following powers:
- a. To hear pre-application presentations of developments by developers and for individual members of the Committee to ask questions and highlight issues that may require further consideration by the developer.
 - b. To determine the planning applications referred to it pursuant to the Regulations and the Constitution, as set out above.
 - c. To consider, and where necessary determine, any other planning matter referred to it in accordance with this Part.

SCHEDULE 1 FUNCTIONS

These are functions/application types that must be determined by officers, pursuant to Regulation 4 and the definitions in the Regulations apply.

Schedule 1 Functions/applications

1. An application made under section 17(1) of the Land Compensation Act 1961 (certificates of appropriate alternative development).
2. An application made under section 26H (1) of the Listed Buildings Act 1990 (certificate of lawfulness of proposed works)
3. A householder application as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
4. A minor commercial application as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
5. A minor residential application consisting of up to 9 new dwellings (flats or houses) on a site smaller than 0.5 hectares and other minor development in relation to flats.
6. An application for permission in principle.
7. (1) An application made under section 73(1) of the Town and Country Planning Act 1990 ("TCPA 1990") (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 1 planning permission.

(2) In this paragraph—

"original planning permission" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990;

"Schedule 1 planning permission" means a planning permission granted pursuant to an application which is of a kind specified in this Schedule.
8. An application made under section 96A(4) of TCPA 1990 (non-material changes to planning permission or permission in principle).

- 9.** (1) In respect of a planning obligation that the authority concerned considers is connected with a Schedule 1 approval—
- (a) a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990 (modification and discharge of planning obligations);
 - (b) an application to modify or discharge that obligation under section 106A(3) of TCPA 1990 (modification and discharge of planning obligations).
- (2) In this paragraph, ‘Schedule 1 approval’ means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in this Schedule.
- 10.** An application made under section 191(1) of TCPA 1990 (certificate of lawfulness of existing use or development).
- 11.** An application made under section 192(1) of TCPA 1990 (certificate of lawfulness of proposed use or development).
- 12.** The submission of a biodiversity gain plan under paragraph 13(2)(a) of Schedule 7A to TCPA 1990 .
- 13.** A reserved matters approval application in respect of an outline planning permission other than a large outline permission.
- 14.** An application made under article 27(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (“DMPO”) (applications made under a planning condition).
- 15.** An application pursuant to provision in Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 for—
- (a) prior approval, or
 - (b) determination as to whether prior approval is required.

NB: the determination of planning applications in Schedule 1 shall include where relevant the settling of terms of Planning Obligations under s106 of the Town and Country Planning Act 1990 related to that Schedule 1 application and their modification or discharge.

SCHEDULE 2 FUNCTIONS/APPLICATIONS

Explanatory Note

1. This Schedule contains those application types that should be determined by officers, unless the Nominated Officer and Nominated Member agree to refer it to committee.
2. The overriding presumption is that all applications listed in Schedule 2 will be delegated to officers and only exceptionally referred to committee.
3. Applications falling within Schedule 2, Part 1 herein will be determined by officers unless referred to committee for determination in accordance with para 4 below.
4. Applications falling within Schedule 2, Part 2, and where the Head of Planning considers it appropriate, other applications within Schedule 2 Part 1, will be considered for referral for committee and shall only be referred to a committee where at least one of the criteria in the Gateway Test is met or it is an Own-Interest Application; and the Nominated Officer and Nominated Member agree to the referral. In default of agreement the application shall be delegated to officers.
5. Functions in Schedule 2, Part 3 are delegated to the Corporate Director - City Operations
6. The Gateway Test is defined in the Regulations as where in the view of the Nominated Officer and Nominated Member the application raises:
 - (a) one or more issues of economic, social or environmental significance to the local area, or
 - (b) one or more significant planning matters having regard to the development plan and any other material considerations.

SCHEDULE 2, PART 1

1. An application for listed building consent made under section 10(1) of the Listed Buildings Act (including Own-Interest Applications).
2. An application made under section 19(1) of the Listed Buildings Act (variation or discharge of conditions of listed building consent,) (including Own-Interest Applications)
3. An application for planning permission that the authority concerned considers is connected with an application of a kind specified in paragraph 1 or 2 of Part 1.
4. An application for planning permission that is not—
 - (a) a householder application, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015
 - (b) a minor commercial application, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015; or
 - (c) a minor residential application consisting of up to 9 new dwellings (flats or houses) on a site smaller than 0.5 hectares and other minor development in relation to flats.
5. (1) An application made under section 73(1) of TCPA 1990 (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 2 planning permission.

(2) In this paragraph—

“original planning permission” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990;

“Schedule 2 planning permission” means a planning permission granted pursuant to an application which is of a kind specified in this Schedule.
6. An application made under section 73A(1) of TCPA 1990 (planning permission for development already carried out).

7. (1) In respect of a planning obligation that the authority concerned considers is connected with a Schedule 2 approval—
- (a) a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990 (modification and discharge of planning obligations);
 - (b) an application to modify or discharge that obligation under section 106A(3) of TCPA 1990 (modification and discharge of planning obligations).
- (2) In this paragraph, ‘Schedule 2 approval’ means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in this Schedule.
8. A reserved matters approval application in respect of a large outline permission.
9. An application made under regulation 9(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (application for express consent to display advertisement).
10. An application made under regulation 16(1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (application for consent under tree preservation order).
11. Own-interest applications that would otherwise fall within Schedule 1.

SCHEDULE 2, PART 2 (referral to Committee)

The following types of Schedule 2 Part 1 applications shall be considered for referral to committee for determination via the Gateway Test (where applicable).

1. An application for planning permission that is not:
 - (a) a householder application,
 - (b) a minor commercial application, or
 - (c) a minor residential application).
2. Applications for planning permission or listed building consent relating to Brighton Pavilion or the Brighton Dome.

3. Any other application falling within Part 1 of Schedule 2 that the Nominated Officer considers should be referred to committee for determination.

NB: The Nominated Officer and Nominated Member may agree to refer an own-interest application to Committee. The Gateway Test does not apply to own-interest applications. Any own-interest application that is not referred to Committee must be determined by officers.

SCHEDULE 2, PART 3, (Other functions)

Delegations to Corporate Director - City Operations

1. After consultation with the Director Governance & Law:-
 - (a) to take enforcement action in all or any planning-related functions of the Council, including but not limited to the service (and where appropriate withdrawal) of formal notices (including temporary stop notices) and consents in relation to planning contraventions, as well as enforcement action in relation to advertisements, tree preservation, building preservation, conservation and listed building issues;
 - (b) to authorise the institution and defence of legal proceedings in relation to all planning matters and respond to planning appeals where necessary;
 - (c) to authorise the removal of enforcement notices from the Local Land Charges Register where appropriate;
 - (d) to authorise the service of discontinuance orders under the Town and Country Planning Act 1990 and the imposition of conditions on the continuance of any use, or the removal or alteration of any buildings or works, where the authority considers this expedient in the interests of the proper planning of their area
 - (e) to require proper maintenance of land (section 215(1) of the Town and Country Planning Act 1990)

2. Local Plan

- a. To prepare and keep under review the Council's Plan and Local Plan (subject to the adoption of the plans by resolution of Full Council).
 - b. To assume overall responsibility for planning policy and practice.
 - c. To advise the Planning Committee on planning policy, conservation and the traffic impacts of any proposed development.
3. To exercise the Council's functions in respect of Environmental Impact Assessment screening / scoping under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and in respect of the Environmental Assessment of Plans and Programmes Regulations 2004.
4. To undertake all consultations, notifications and publication of advertisements on behalf of the Council in relation to any of the matters listed in Schedules 1 & 2.
5. To exercise the Council's powers to decline to determine subsequent, overlapping and retrospective applications as defined in sections 70A to 70C of the Town and Country Planning Act 1990.
6. To exercise the Council's power to revoke or modify planning permission as set out in Section 97 of the Town and Country Planning Act 1990
7. To submit observations on behalf of the Local Planning Authority in respect of consultations (on planning matters) by government departments in consultation with Lead Cabinet Member, other Local Authorities, Local Government Associations and statutory or regulatory bodies.
8. To authorise entry to land and property pursuant to the Town and Country Planning Act 1990
9. To make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights (Parts 6, 7, 1, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995) where not covered by Schedule 1.

10. To determine applications for hazardous substances consent and related powers
11. Power to issue Certificate of Lawful Works to listed buildings
12. To exercise any duties relating to applications for listed building consent and Certificates of Lawful Works and conservation area consent
13. Power to serve a building preservation notice and related powers
14. Powers to acquire a listed building in need of repair and to serve a repairs Notice
15. Power to execute urgent works to unoccupied listed buildings
16. Power to authorise stopping up or diversion of highway (section 247 of the Town and Country Planning Act 1990).
17. Duty to enter land in Part 2 of the brownfield land register (Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017).
18. The making of Local Development Orders under Article 38 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
19. Power to exercise functions relating to Nationally Significant Infrastructure Projects and Development Consent Orders as contained in the Planning Act 2008.
20. The making of Local Listed Building Consent Orders under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Local Listed Building Consent Orders) (Procedure) Regulations 2014
21. To exercise the council's functions in its capacity as a local planning authority in relation to developer contributions in respect of the following:
 - a. legal obligations imposed pursuant to the Town and Country Planning Act 1990 (as amended), and
 - b. in its capacity as the charging and collecting authority for the purposes of the Community Infrastructure Levy (CIL), pursuant to the CIL Regulations 2010 made under the Planning Act 2008 (as amended).

Note : for the avoidance of doubt, a) and b) of this paragraph shall include all steps considered necessary and incidental to perform these functions, including but not limited to the following: the calculation of the amount of contribution to be requested including the assessment of claims for the exemption and relief of CIL; the enforcement of all liabilities; the collection, monitoring and distribution of contributions (s106 only) all steps up to and including any appeal.

22. To exercise the Council's functions in relation to Assets of Community Value, pursuant to the Localism Act 2011. Note: the power to hear appeals in relation to Assets of Community Value may also be exercised by the Director Governance & Law.
23. To exercise any other function of the Council under the Planning Acts whether as a local planning authority or otherwise
24. To determine any highways matter under the Highways Act 1980 unless referred to the Planning Committee
25. To determine any other matter of fact or law relating to a right of way or the Council's Definitive Map and Statement under the Wildlife and Countryside Act 1981 unless referred to the Planning Committee

APPENDIX A

Planning Scheme of Management

- 1 Introduction
- 1.1 Reference to Regulations in this document is a reference to the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.
- 1.2 This Planning Scheme of Management allows the Corporate Director City Operations to discharge their responsibilities under the Planning Scheme of Delegation in the Constitution, and for the purposes of Regulation 3 to produce a document that clearly sets out:
 - A. the member of the authority who acts as the Nominated Member;
 - B. one or more members of the authority who act as a substitute for the Nominated Member;
 - C. the officer of the authority who acts as the Nominated Officer;
 - D. one or more officers of the authority who act as a substitute for the Nominated Officer.
- 1.3 The document also sets out:
 - the officer(s) of the authority who have delegated powers to determine a Schedule 1 planning application (Regulation 4);
 - the officer(s) of the authority who have delegated powers to determine a Schedule 2 planning application (Regulation 5);
 - the officer(s) of the authority who have delegated powers to determine a Own-Interest Application (Regulation 6); and
 - the officer(s) of the authority who have delegated powers under the Constitution to determine any other planning matter.
- 1.4 This document sets out the rules within the Regulations and provides additional advice on the use of delegated powers.

2 Nominated Members

2.1 Pursuant to Regulation 3(1)(a) and 3(2)(a), the Nominated Member for the purposes of Regulations 5 and 6 is the Chair of Planning Committee.

2.2 Pursuant to Regulation 3(2)(b), where the Nominated Member is unavailable for whatever reason, the substitute Nominated Member is the Vice Chair of Planning Committee.

3 Nominated Officers

3.1 Pursuant to Regulation 3(1)(b) and 3(2)(a), the Nominated Officer for the purposes of Regulations 5 and 6 is the Head of Planning.

3.2 Pursuant to Regulation 3(2)(b), where the Nominated Officer is unavailable for whatever reason, the substitute Nominated Officer is the Planning Manager - Development Management.

4 Sub-Delegation

4.1 The Regulations and the Constitution provide that different officers can be nominated for different purposes with respect to the determination of planning applications and other planning matters.

Schedule 1 and Schedule 2 Applications

4.2 The Corporate Director City Operations has delegated the task of determining the following planning application categories to the Head of Planning who in turn has delegated such applications to the following officers.

Schedule 1 Applications (Regulation 4).

Application category	Delegated officer	Delegated officer	Delegated Officer
All applications within Schedule 1	Planning Manager	Planning Team Leader	Principal Planning Officer (Development Management)

4.3 Schedule 2, Part 1 Applications (Regulation 5).

Application category	Delegated Officer	Delegated officer	Delegated officer
All applications within Schedule 2, Part 1 that have not been referred to committee for determination.	Planning Manager	Planning Team Leader	Principal Planning Officer (Development Management)

4.4 Own-Interest Application (Regulation 6)

Application category	Delegated Officer	Delegated officer	Delegated officer
Any Own-Interest application within Schedule 2, Part 1, not referred to committee	Planning Manager	Planning Team Leader	Principal Planning Officer (Development Management)

Other Planning Matters

- 4.5 The Constitution delegates the exercise of all planning matters to the Corporate Director City Operations, save for those matters that must be determined by Full Council, the Executive or by Planning Committee. This should be read in conjunction with Clause 1, paragraph 1.7 of Part 2F – Scheme of Delegations to Officers.

- 4.6 With respect to a planning matter that is delegated to the Corporate Director City Operations, Director - Place or Head of Planning but is not listed above, they can, at their discretion, sub-delegate the task of determining the matter to another officer.
- 4.7 The power of the Director - Place to hear appeals in relation to Assets of Community Value may also be exercised by the Director Governance & Law.

5 Use Of Delegated Powers

- 5.1 When using delegated powers or referring a matter to committee for a determination, the Nominated Officer and the Nominated Member, when involved, and an officer of the LPA must make sure that they take such decisions in the appropriate way and that they are recorded. This should be captured in the associated delegated or committee report with respective sections titled:
- Reason for determining under delegated powers
 - Reason for referral to Committee
- 5.2 These reasons should be succinct but clear.

Schedule 1

- 5.3 These applications must always be determined under delegated powers and cannot be referred to committee for determination. The associated delegated report should therefore state:

This is a Schedule 1 Application. By virtue of Regulation 4, it must be dealt with under delegated powers.

Schedule 2

Schedule 2 Part 1 Applications

- 5.4 The applications in Schedule 2 Part 1 can be determined by officers if they consider that, in the context of a particular application, the criteria in the Gateway Test (see below) are clearly not engaged. The delegated report should state:

This is a Schedule 2 Application. By virtue of Regulation 5, it should be dealt with under delegated powers because the Gateway Test is not engaged.

Gateway Test Applications

- 5.5 The Regulations make provision, in Regulation 5(3), for the matters that must be considered by the Nominated Member and Nominated Officer when they agree whether or not to refer a proposal to determine a Schedule 2 Application to committee. They are known as the Gateway Test and are that the proposal raises:

- a) one or more issues of economic, social or environmental significance to the local area; or
- b) one or more significant planning matters having regard to the development plan and any other material considerations.

- 5.6 If it is agreed to refer an application to committee, that decision and the reasons for it should be set out succinctly and clearly in the associated committee report as follows:

This is a Schedule 2 Application. By virtue of Regulation 5, it is being reported to Committee because the Nominated Member and Nominated Officer agree that it is necessary because [it raises one or more issues of economic, social or environmental significance to the local area] [and] [it raises one or more significant planning matters having regard to the development plan and any other material considerations].

- 5.7 If it remains a delegated decision, the associated delegated report should state:

This is a Schedule 2 application. By virtue of Regulation 5, it is being dealt with under delegated powers because the Nominated Member and Nominated Officer do not agree that the Gateway Test is engaged because it does not raise any issues of economic, social or environmental significance to the local area and nor does it raise any significant planning matters having regard to the development plan and any other material considerations.

Own-Interest Applications

- 5.8 These are applications made by or on behalf of:
- a) the Council;
 - b) a member of the Council;
 - c) an officer of the Council; or
 - d) the Council or any of its members or officers otherwise has an interest in the application.
- 5.9 The decision-making process for these applications should be one of ensuring openness and transparency. In deciding whether to refer to committee, the Nominated Member and Officer should ensure that, because of the nature of the applicant, there is not a real (or reasonably perceived) risk of bias by determining the application under delegated powers and secondly that, because of the nature of the development, there is a good reason to refer it to Committee.

Own-Interest Applications: Applicant Considerations

- 5.10 In this context, category (c) Linked Persons (i.e. an officer of the Council) should normally be narrowed to only apply to:
- a Senior Officer of the Council; or
 - an 'officer of the Local Planning Authority'.
- 5.11 The first would be defined as Service Head level and above.

- 5.12 The second, would be defined as an officer within the Council who, in the opinion of the Head of Planning, is closely involved in the day-to-day work of the Council's planning function.
- 5.13 It is reasonable to conclude that other officers of the Council would probably not be known to the planning service and therefore the risk of bias is not engaged. Such applications should be determined in the same way that any other application in that Schedule would be determined. The details of the Own-Interest applicant status should be recorded in the respective committee or delegated report with the following introduction:

This is an Own-Interest Application because the applicant is an officer of the Council, but as they are not a senior officer nor closely involved in the day-to-day work of the Council's planning function it has not been reported to committee for that reason. [This is a Schedule 1 Application. By virtue of Regulation 4, it must be dealt with under delegated powers.] [This is a Schedule 2 Application. By virtue of Regulation 5, it should be dealt with under delegated powers because the Gateway Test is not engaged.]

Own-Interest Applications: Development Considerations

- 5.14 For any application:

- caught by the above category (c) 'Own-Interest applicant status' criteria; or
- an Own-Interest Application in categories (a), (b) and (d);

with respect to whether there is a good reason to refer that application to committee because of the nature of the development, the following criteria should be used:

Such an Own-Interest Application should only be considered by the Nominated Member and Nominated Officer for referral to and determination by committee if one of the following criteria applies:

- the proposal has been advertised under Article 15 of the DMPO because it does not accord with the provisions of the development plan; or

- one or more material planning considerations are raised that have the potential to have a significant impact.

5.15 This allows the circumstances of each application to be assessed and if it is for a development that complies with policy and there is not considered to be a material planning objection, it can be dealt with under delegated powers, with the reason recoded in the delegated report as follows:

This is an Own-Interest Application. By virtue of Regulation 5, it is not being reported to committee because it has not been advertised under Article 15 of the GMPO as a departure and nor is there considered to be a material planning objection.

5.16 Where either of these criteria applies, the Nominated Member and Nominated Officer must agree that it is necessary for the planning application to be referred to and determined by committee and this should be recorded in the normal way in the associated committee report as follows:

This is an Own-Interest Application. By virtue of Regulation 5, it is being reported to Committee because the Nominated Member and Nominated Officer agree that it is necessary because [it has been advertised under Article 15 of the GMPO as a departure] [and] [there is considered to be a material planning objection].

5.17 Limitations should be set on the receipt of material planning considerations by the Planning Service to ensure that these matters can be safely administered, and the risk of fraudulent objections is minimised:

A material planning consideration must have been made in writing in response to the publicity/advertisement/notification of the application, be from a person with an address within the LPA area and be received within the specified deadline.

5.18 With these safeguards in place, such applications will be put to committee where that serves a legitimate purpose but can be dealt with under delegated powers where committee involvement is not necessary.

- 5.19 Under Regulation 10 of the Town and Country Planning General Regulations 1992, where a local planning authority is determining its own application for planning permission, it must not be determined by a committee, sub-committee or officer responsible for the management of the building or land to which the application relates. In addition to this restriction, where a planning application is made by or on behalf of a nominated officer or member or an entity owned or controlled (whether wholly or partly) by a member or officer (including jointly with another person), in the interests of propriety, they should not be involved in the decision on whether to refer it to committee or not.

Officer's Discretion To Use Delegated Powers

- 5.20 With respect to planning applications covered by the Regulations, officers do not have discretion to decide to report a matter to committee. Only the nominated member and officer can jointly take that decision.
- 5.21 With respect to any other planning matter that is capable of being dealt with under delegated powers, an officer does have the ability, in their absolute discretion, to decide that it is not appropriate in the circumstances of a particular case to exercise those powers with respect to that planning matter and therefore report it to members (Full Council, the Executive or Planning Committee as appropriate) for determination.
- 5.22 In both cases, that decision and the reasons for it should be set out succinctly and clearly in the associated committee report, as follows:

This is [describe the planning matter]. It is being reported to [Council] [Cabinet] [Committee] because the [Head of Planning] considers that it is necessary because [...].

Lobbying

- 5.23 The Council's Scheme of Delegation prohibits the Nominated Member or the Nominated Officer or any other officer of the authority, when exercising their powers under Regulations 4, 5 or 6 and the Scheme of Delegation, being lobbied or otherwise contacted by any person or organisation, including by members or officers of the relevant authority, to use their power in a particular way.

APPENDIX 4

**PART 4E – PROTOCOL FOR MEMBERS REGARDING
PLANNING APPLICATIONS**

PART 4E PROTOCOL FOR MEMBERS REGARDING PLANNING APPLICATIONS

This Protocol reinforces Planning Committee Councillors' community engagement role whilst maintaining good standards of probity that minimises the risk of legal challenge or complaint to the Ombudsman. **It is to be read in conjunction with the Code of Conduct for Members at Part 4D of the Constitution, which prevails where there is any inconsistency.**

1 Key Purpose of Planning

- 1.1 Planning has a positive and proactive role to play at the heart of local government. Its purpose is to translate goals into actions. It balances social, economic and environmental needs to achieve sustainable development. It can deliver important public benefits such as new housing, infrastructure and local employment opportunities.
- 1.2 The system works best when Councillors and officers involved in planning understand and respect their roles and responsibilities and the context and constraints within which they operate.
- 1.3 Planning decisions are based on balancing competing interests and making an informed judgement against a local, regional and national policy framework. In doing this, decision-makers need an ethos of working in the wider public interest on what can be controversial proposals.

2 Aim Of The Code

- 2.1 In today's place-shaping context, early Councillor engagement is encouraged to ensure that strategic proposals for sustainable development can be harnessed to produce the places that communities need. This Code is intended to reinforce Councillors' community engagement role whilst maintaining good standards of probity that minimises the risk of legal challenge.

- 2.2 Planning decisions can be controversial and generate conflicting public opinions. It is therefore important that the decision-making process is visibly open and transparent.
- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors and officers must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that Councils make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 The process should leave no grounds for suggesting that those participating in a planning decision were biased or that the decision itself was unlawful, irrational or procedurally flawed.

When The Code Applies

- 2.5 This Code applies to Councillors and Officers when they are involved in the planning process. This includes, where applicable, when part of decision-making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or consultative meetings. It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications. If a Councillor has any doubts about the application of this Code to their own circumstances they should seek advice early from the Monitoring Officer, and preferably well before any meeting takes place.

- 2.6 This Code applies to all meetings of the Council's Planning Committee. When the term "Councillor" is used, it means that the text is applicable to all members of the Council. The term "Planning Committee Councillor" means a member or a substitute member of the Council's Planning Committee, and the term "Member" is used interchangeably with "Councillor".

Relationship To The Members' Code Of Conduct

- 2.7 Councillors are reminded that this Code is designed primarily for Planning Committee Councillors and Councillors who, for whatever reason, find themselves involved in the planning process. It should not be read in isolation. Whilst this Code interprets the Code of Conduct for Members in Part 4D in the Constitution with respect to planning matters, it is subordinate to that Code and in the event of any inconsistencies arising between this Code and the Code of Conduct for Members, the latter shall prevail.

3 Role And Conduct Of Councillors And Officers

- 3.1 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Councillors are responsible to the electorate as a whole.

General Roles Of Councillors And Officers

- 3.2 Officers are not appointed to serve any political group and therefore advise all Councillors. Officers carry out the daily functions of the Council's business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Code of Conduct for Employees contained in the Constitution (Part 4J). In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by the Solicitors Regulation Authority. Officers in other professions will have similar codes.

- 3.3 The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Code of Conduct for Members is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to Council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council's constitution sets down rules and orders which govern the conduct of Council business.

Relationship Between Councillors And Officers

- 3.4 Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and an understanding of each other's positions. This relationship, and the trust and respect that underpins it, must never be abused or compromised.
- 3.5 Planning officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of a committee or other meeting or its Councillors. Planning officers who work closely with Councillors must ensure that their professional judgment is not compromised by the nature of their professional relationship with Councillors. Informal relationships between officers and Councillors should be avoided as this may create difficulties for chartered planners where there are genuine differences of approach to a planning matter.
- 3.6 Councillors must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views must be received in written form (eg email) and be placed on the planning file, so that they can be considered together with submissions where they are material planning considerations.

4 Interests: Registration And Disclosure

- 4.1 The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.
- 4.2 A Councillor should refer to the Code of Conduct for Members for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. Failure to properly register a Disclosable Pecuniary Interest or participation in discussion or voting in a meeting on a matter in which a Councillor has a Disclosable Pecuniary Interest, can both constitute a criminal offence. Ultimately, the responsibility for fulfilling these requirements rests with each Councillor.

Registration Of Interests

- 4.3 A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.

Disclosure Of Interests

- 4.4 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a matter to be discussed at Planning Committee, he or she should raise this with the Monitoring Officer as soon as possible.

Personal And Pecuniary Interests

- 4.5 The Council's Code of Conduct for Members includes provision for declaration of interests that are wider than Disclosable Pecuniary Interests under the

Localism Act 2011. Some personal interests may amount to pecuniary interests that impact on members' ability to participate and vote on that item.

Disclosable Pecuniary Interests

- 4.6 Where a Councillor has a Disclosable Pecuniary Interest relating to an item under discussion, the Councillor may not participate (or participate further) in any discussion of the matter at the meeting or participate in any vote (or further vote) on the matter. The Councillor must also withdraw from the committee room. This means that a Councillor with a Disclosable Pecuniary Interest is precluded from making representations orally to the committee or from making representations on behalf of a party to the hearing.
- 4.7 A Councillor with a Disclosable Pecuniary Interest can still present their views to the committee through other means. For example, the Councillor can:
- make written representations on a planning application in their private capacity – the existence and nature of the interest should be disclosed in such representations, and the Councillor should not seek preferential consideration for their representations – such written representations should be addressed to officers rather than to other Councillors;
 - use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; or
 - arrange for another Councillor (eg, a fellow ward Councillor) to represent the views of the Councillor's constituents on matters in which the Councillor has a Disclosable Pecuniary Interest.
- 4.8 Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances a dispensation can be sought from the Monitoring Officer to be present for that item of business.

- 4.9 Members should also have regard to the requirements regarding personal and pecuniary interests under the Code since these may also require a declaration of interest and may impact on members' ability to participate in an item.

5 **Bias: Predetermination And Predisposition**

- 5.1 In addition to being aware and taking appropriate action in relation to interests, Planning Committee Councillors need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to. Councillors should retain a neutral position on planning applications prior to determination at the Committee and, in order to retain the impression of being free from bias, should avoid making public statements as to their support of, or opposition to, any application.
- 5.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the committee's decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.
- 5.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear that, although they have an initial view, they are willing to listen to all the material considerations presented at the committee and to keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable, the former is not.
- 5.4 Section 25 of the 2011 Localism Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This enacted the common-law position that a

Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and are prepared to change their mind in the light of information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider whether the Councillor was biased. It is not enough just to say you have an open mind; you need to act in a way that shows that you have.

Pre-Application Presentations

- 5.5 This distinction is particularly important in the context of the Council's practice of facilitating presentations to Planning Committee Councillors by developers of schemes at the pre-application stage. After these presentations, Planning Committee Councillors may question details of the development so that they can input into the design development of these strategic schemes. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which will display predisposition around these elements. What a Planning Committee Councillor should not do at this pre-application stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process, when all the material considerations are available to the Planning Committee Councillor to consider and weigh up before finalising their view.

Dealing With Lobbying

- 5.6 Planning Committee Councillors should not organise the support of, or opposition to, planning applications.
- 5.7 No Member should lobby Members of the Planning Committee outside the formal procedures for objecting to or making representations on planning matters, as set out in this Code and the Protocol for Public Representations at Planning Committee.

- 5.8 A Planning Committee Councillor who has been lobbied and wishes to support their constituent, or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias – in which case their participation in decision-making could be considered to go against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application. A Planning Committee Councillor could speak at Planning Committee (in accordance with the Public Speaking Rights rules in the Planning Committee Procedures) on behalf of their constituents, having declared their pre-determined position, but could not take part in the planning decision.
- 5.9 Participation as a Planning Committee Councillor where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Councillor considers that they are or have given the impression that they are biased or predetermined, it is unlikely to be appropriate for them to participate in the matter.

6 Applications Submitted By The Council, Councillors Or Officers

- 6.1 Care needs to be taken in the way these applications are dealt with as set out in the guidance below.

Applications Submitted By The Council

- 6.2 Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.
- 6.3 The Planning Scheme of Delegation sets out the circumstances when applications submitted by the Council may be determined by Committee.

- 6.4 Certain Councillors may, through their other roles outside of Planning Committee have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Planning Committee, the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. There may be a potential public perception that, by being part of the application and determination process, Planning Committee Councillors may not retain a neutral and objective position. If in doubt, they are encouraged to seek advice from the Monitoring Officer.

Applications Submitted By Councillors Or Officers

- 6.5 It is perfectly legitimate for planning applications to be submitted by Councillors and members of staff. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.
- 6.6 If a councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing.
- 6.7 The Planning Scheme of Delegation sets out the circumstances when applications submitted by councillors and officers must be determined by Committee.
- 6.8 The procedures to be followed in Committee when determining such applications are as follows:
- The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary Interest for that Councillor and they will need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Code of Conduct for Councillors.

- If such a Councillor does not have a Disclosable Pecuniary Interest, they may address the Committee as the applicant in accordance with the Council's public speaking procedures.
- If such a Councillor has a Disclosable Pecuniary Interest, they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf, unless they have received a specific dispensation for this purpose from the Monitoring Officer.
- The Planning Committee Councillor must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter. The Councillor should leave the committee room during consideration of any application in which they have an interest which would have amounted to a Disclosable Pecuniary Interest had they been a voting Member of the Committee

6.9 The principle in the final bullet point also applies to an application submitted by a member of staff when it is considered in Committee.

7 Lobbying Of And By Councillors

7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, enforcement action, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Councillor sitting on a relevant committee.

7.2 Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense are exercised by all the parties involved.

Lobbying Of Councillors

7.3 A Planning Committee Councillor should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may

prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Councillors must ensure that it is made clear to any lobbyists that they will only be able to reach a final decision on any planning matter after they have heard all the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

7.4 Planning Committee Councillors should therefore:

- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer report prepared for determination under delegated powers or by Committee;
- pass on any lobbying material received (including correspondence, plans, data etc in respect of an application) to the Planning Service as soon as practicably possible so that it can be considered and included in the report on the application;
- refer the matter to another ward councillor who is not on the Planning Committee;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg, refreshments at a meeting), ensure that they comply with the provisions in the Code of Conduct for Members on gifts and hospitality; and
- inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality, including where they have been declined), who will in turn advise the appropriate officers to follow the matter up where necessary.

7.5 Planning Committee Councillors should note that, subject to the requirements to ensure that they comply with the Code of Conduct for Members and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;
- seeking information through appropriate channels, which generally would be officers in the Planning Service; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

7.6 In the interest of openness and transparency, Planning Committee Councillors should declare at the meeting any lobbying to which they have been subject.

7.7 It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. Striking this balance is, ultimately, the responsibility of the individual Councillor.

Lobbying By Councillors

7.8 Planning Committee Councillors should not become a member of, lead or represent a national or local organisation that regularly lobbies to promote or oppose planning proposals. If a Councillor does, they may appear to be biased. Should Planning Committee Councillors become involved in applications to the

extent of organising support/objection, the Council's credibility in the decision making process could be compromised. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have such an interest, unless they have received a specific dispensation for this purpose from the Monitoring Officer.

- 7.9 Planning Committee Councillors can join general groups which reflect their areas of interest, and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest and consider whether that also amounts to a pecuniary interest where that organisation has made representations on a particular proposal or other planning matter. Where a Planning Committee Councillor is able to participate, they should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.
- 7.10 Councillors should not lobby Planning Committee Councillors regarding their concerns or views on a planning application, outside the formal procedures for objecting to or making representations on planning matters, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 7.11 Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, is likely to compromise, or could be seen as compromising an officer's impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.
- 7.12 Planning Committee Councillors should not decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Councillor to do so.

- 7.13 As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.

8 Pre-Application Discussions

- 8.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. For this reason, the Council have developed a pre-application process that enables engagement at the pre-application stage.
- 8.2 For major strategic applications, the Council offers a service to potential applicants, which includes presenting their schemes to the Council's Planning Committee Councillors. Details of this are set out in the Protocol for Planning Committee (Part 4E1). This is the way in which Planning Committee Councillors engage with these schemes and there should therefore be no need to attend any other meetings with potential applicants or their agents or representatives.
- 8.3 For other application types, potential applicants may seek to meet Planning Committee Councillors. For minor or household applications, these can be treated as a form of lobbying and Councillors, including Planning Committee Councillors, should follow the advice on lobbying set out above.
- 8.4 Where an application is more substantial, but not subject to a pre-application committee presentation, these meetings will be subject to the following procedures:

- No meeting involving Planning Committee Councillors shall be convened without the presence of a Council planning officer for the entire duration of the meeting.
- Understand that such meetings will attract a fee and make sure the applicant understands this.
- Both this Protocol and the Code of Conduct for Members will apply when attending such meetings.
- Any Planning Committee Councillor involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.
- Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.
- Councillors should not become drawn into any negotiations, which should be done by officers to ensure that the authority's position is co-ordinated.
- A contemporaneous note of the meeting should be prepared by the planning officer attending and a copy sent to all parties for their comments on accuracy.
- The final version of the note of the meeting will be placed on the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.

8.5 Councillors should not seek to arrange meetings that would circumvent the Council's normal pre-application procedures, including the need to charge applicants for such meetings.

- 8.6 Planning Committee Councillors should not attend pre-application meetings that are not organised through officers.

9 Post-Submission Discussions

- 9.1 A Planning Committee Councillor should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.
- 9.2 There are limited circumstances when Planning Committee Councillors may legitimately engage in post-submission discussions. An example would be in the case of a very large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers as a technical briefing and run under the procedures set out in the Protocol for Planning Committee.
- 9.3 If a Planning Committee Councillor is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether it would be prudent in the circumstances to make notes when contacted. A Councillor should report to the Head of Planning any significant contact with the applicant or other parties, explaining the nature and purpose of the contact and their involvement, so that it can be recorded on the planning file. Any material received by a Councillor from an applicant, their agent or objectors in relation to an application should be passed onto the Head of Planning so that it can be taken into account in the determination of the application. In the interests of transparency, any such contact should be declared at the subsequent committee meeting that considers the application.
- 9.4 Planning Committee Councillors should not attend post-submission meetings that are not organised through officers.

10 Planning Appeals

- 10.1 Appeals against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.
- 10.2 If a Councillor wishes to attend a public inquiry or hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Head of Planning to ensure that they are aware of the process and that the Councillor does not act in a manner which compromises their position as a Councillor, brings the Council into disrepute, prejudices the Council's case or puts the decision made by the Council at risk of challenge.
- 10.3 Where the appealed decision was contrary to the officer's recommendation, officers should still be able to present the Council's case. Where this is not the case, the matter will be presented by a planning consultant employed by the Council.

11 Planning Enforcement

- 11.1 It is perfectly legitimate for Councillors to bring to the attention of the Planning Service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the Planning Service via the online form on the Planning Enforcement web page.
- 11.2 Councillors must not seek to have matters that they have raised given preferential treatment merely because they are a Councillor.

12 **Councillor Training**

- 12.1 Councillors may not participate in decision making at meetings of the Council's Planning Committee unless they have attended mandatory training. This will be provided or procured by the Council's Planning and Legal Services and will cover the principles of planning and probity in planning.
- 12.2 Whilst all new Planning Committee Councillors (and new substitutes) must attend this compulsory training before they can participate in the Council's Planning Committee, all other Planning Committee Councillors (and substitutes) are also encouraged to attend so that they can ensure that they keep up to date on these matters. All Planning Committee Councillors (and substitutes) must attend this training at least annually, or as otherwise recommended individually or collectively by the Monitoring Officer.
- 12.3 All Planning Committee Councillors should endeavour to attend any other specialised training sessions provided, since these will be designed to extend and deepen their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role.

APPENDIX 5
PART 4E1 – PROTOCOL FOR PLANNING COMMITTEE

PART 4E1 – PROTOCOL FOR PLANNING COMMITTEE

This protocol supplements the Committee Procedure Rules which are published at Part 3C of the Constitution, and the two should be read together. These procedures and protocols relate solely to Planning Committee. A representative of the Corporate Director – City Operations should be present at all Planning Committee Meetings. Reference to the Head of Planning is also a reference to their representative.

Briefings

1. Briefings should be held after the draft agenda has been set and officers' recommendations made and are intended to be to be a fact-finding exercise only. The prime purposes of these briefings should be: -
 - to discuss the issues with the Chair, Deputy Chair and Opposition Spokesperson and Committee members;
 - to ensure that the rationale for officers' recommendations is fully explained;
 - for members to highlight possible problem items and potentially controversial applications;
 - to consider arrangements for site visits;

Pre-application Presentations

2. These presentations are not open to the public; they are attended by members of the Planning Committee and officers. The procedure for considering each item shall be as follows:
 - The Head of Planning will introduce the main issues;
 - The developer will present their scheme for no longer than 20 minutes unless the Chair, exercising their discretion, has allowed a different period;
 - Through the Chair, Committee members ask questions of the developer; and

- After the developer leaves, the Committee will discuss the scheme.
- The Head of Planning will summarise the issues raised by the Committee which will form the minute for the item.

Applications For Decision

3. The procedure for considering applications (including requests/applications for variation or discharge of completed s106 planning obligations) where there are public speakers shall be as follows:
 - The Head of Planning will introduce the development the subject of the application, set out the planning merits and display any plans as well as bringing to Councillors' attention any new matters that have arisen since the agenda was prepared.
 - An opportunity will be given for members of the public to address the Committee. Where there is more than one objector, the Democratic Services Officer will require the objectors to nominate a spokesperson. Exceptionally, and at the Chair's discretion, more than one objector may be allowed to speak, but only where new material issues are to be raised.
 - Councillors, a representative of Rottingdean Parish Council and a representative of a neighbourhood forum (designated under the provisions of the Localism Act 2011) may address the meeting in relation to any planning application before the Planning Committee that falls within or affects their ward/area.
 - The applicant (or their representative) has an opportunity to make representations in support of the application, but only if the recommendation is to refuse or there are relevant councillors, a representative of Rottingdean Parish Council, a representative of a neighbourhood forum or objectors speaking against the application. Applicants will make their representations after all other speakers have spoken.
 - Members of the Planning Committee may ask questions of the case officer; objectors and the applicant only for the purpose of clarifying matters of fact already raised during their respective presentations;

- Members of the Planning Committee may receive legal and other professional advice as necessary during the proceedings;
 - Where necessary, the Head of Planning or case officer will address any issues raised during public speaking; and
 - Having asked any questions required of the objectors, applicant and the Head of Planning, the Committee will consider the item and reach a decision.
4. The procedure for considering applications where there are no public speakers shall be as follows:
- If requested by the Chair, the case officer will present the main issues; and
 - The Committee will consider the item and reach a decision.

Public Speaking

5. People can only address the committee on items that are on the Applications for Decision part of the agenda, other items on the agenda do not attract public speaking rights, except at the discretion of the Chair.
6. In the interests of efficient despatch of business, the following rules regarding speaking time at Committee per application will apply:
- A total time of 3 minutes shall be allowed for all objectors. The term “objector” shall mean a person who lives in the immediate vicinity of the application site or who otherwise may reasonably be considered to be potentially directly affected by the proposed development. Where the Chair permits more than one objector to speak, the time will be divided equally among the objectors (unless they come to some other arrangement between themselves).
 - A total time of 3 minutes shall be allowed for councillors whose ward is affected by the application. Where more than one such councillor wishes to speak, the time will be divided equally among the councillors (unless they come to some other arrangement between themselves).
 - A total time of 3 minutes shall be allowed for Rottingdean Parish Council

- A total time of 3 minutes shall be allowed for a neighbourhood forum
 - A total time of 3 minutes shall be allowed for the applicant. If there are supporters wishing to address the Committee, they must liaise with the Applicant.
 - 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 in allowing additional speakers or longer speaking times. If changes are made to the speaking times, the Applicant must be offered the same time to speak as the time offered collectively to Objectors.
7. A person wishing to speak at a meeting of the Committee shall give written notice of their intention to do so to Democratic Service 4 clear days before the meeting (Normally, the Committee meets on Wednesdays which means the notice has to be received by the preceding Friday). The applicant and other persons wanting to make representations will be notified of the arrangements for public speaking by being sent a copy of this protocol together with contact details. Applicants may be given the right to speak notwithstanding that they have failed to give the required notice.
 8. Where more than three Objectors have registered to speak and the arrangements have not been resolved in advance, Democratic Services will inform the parties involved so that they can decide either who will address the Committee or how they will divide up the allocated speaking slots. Objectors are expected to come to an agreement between themselves on this
 9. Any Councillor who addresses the committee must declare, before making their speech, details of any material contact they have had with the applicant, agent, advisor, neighbour, objector or other interested party and whether the speech is made on behalf of such person(s) or any other particular interest.

10. All those involved in public speaking may use visual aids during their oral presentation. The officers' presentation material is not available for use by public speakers.
11. 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 invited to do so by the Chair.
12. Where an application relates to the variation or discharge of completed s106 planning obligations, and is to be determined by the Committee, developers or their agents requesting or applying for the variation or discharge of completed s106 planning obligations have the opportunity to address the Committee for a total of 3 minutes in support of their request/ application. The opportunity arises whether the officer recommendation is to agree or to refuse the application. Four clear days' notice of the intention to address the Committee shall be given to Democratic Services. Members may ask questions of the developer /agent only for the purpose of clarifying matters of fact already raised during the developer's/agent's address.

Speaking at Adjourned Meetings

13. Where an item is on an agenda and it has been deferred from a previous meeting, speaking will only be allowed in the following circumstances:
- Where the item was deferred before the registered public speakers had the opportunity to present their material.
 - Where substantive new material is being considered by the Committee. Substantive new material is defined as material where officers have decided that consultation with the public on it is necessary.
 - Where the matter is to be reconsidered for any other reason.
14. Otherwise, because the same members are continuing their consideration of the item and are not considering substantive new material, a second round of public speaking is not required.
15. Only members who were present at the original meeting may vote at the deferred meeting. If new members who were not present at the first meeting are to participate in the decision, they must be present for the entire consideration of the matter, including the officer's introduction.
16. For the avoidance of doubt, an item that has been deferred because members were minded to go against the officer recommendation and the Head of Planning was unable to advise on grounds in the meeting or the decision constitutes a Departure and is therefore bringing a further report to the next available Committee setting out their advice, does not require a second round of public speaking because this does not constitute substantive new material
17. The Committee or the Chair may waive any of the requirements of this protocol if satisfied on legal and professional advice, and only in exceptional circumstances, that it is appropriate to do so in the circumstances.

Delegation to Officers

18. It is the function of the Head of Planning to communicate the detailed wording of Committee decisions to applicants.

19. Where the Committee determines an item on an agenda the Head of Planning has delegated authority to:

- make changes to the wording of the committee's decision (such as to delete, vary or add conditions, informatives and planning obligations or, if refused, the reasons for the decision);
 - accept changes or amendments to the development; and
 - consider the effect of any subsequent changes in legislation or policy;
- prior to the decision being actioned, provided that the Head of Planning is satisfied that any such changes 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.

20. In the event of changes being made to an officer recommendation by the Committee (such as amending or changing the recommendation), the task of formalising the wording of those changes, within the substantive nature of the Committee decision, is delegated to the Head of Planning.

Other procedural issues

21. It is vital that Members of the Committee understand what their role is and the parameters within which they must operate.

22. Their role is to determine the planning applications that are reported to them; they are planning decision makers. In carrying out that role they are governed by planning law, particularly s36(6) of the Planning and Compulsory Purchase Act 2004 which states that they must determine an application in accordance with the development plan unless there are good planning reasons to do otherwise. In effect, the purpose of a planning decision maker is to deliver the local plan.

23. This means that political matters must not be brought into the debate, only material planning considerations. Members are not there to represent their constituents. They represent the Council as a whole, but they must make decisions in the public interest. This can extend beyond the vicinity of the development under consideration and in some cases encompass a very wide area, even the whole country if national considerations are raised.

Lobbying

24. Material must not be distributed to Committee Councillors by members of the public (including public speakers) or other Councillors during the meeting, including the period before it starts or during any adjournments.

25. The distribution of such material should be done in advance of the meeting by either supplying it to the Planning Service, if it is written material and can be included in the Addendum Report, or otherwise by sending it direct to Councillors in advance of the meeting. Councillors' contact details are available from the Council's website. Anything sent to Councillors must also be sent to the Planning Service.

26. Committee Councillors should not engage in conversation with members of the public (including public speakers), representatives of the Applicant or other Councillors before the meeting or during any adjournments.

Attendance during Committee

27. Where a decision is made on an agenda item, to be able to vote a Member of the Committee must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking. This also applies when a matter is considered across two or more meetings because of a deferment, unless a decision is made to start the consideration of the matter afresh.

28. Any dispute as to whether the Councillor in question should be permitted to vote shall be decided by the Chair, in consultation with legal and other officers

as necessary. That decision will be final and not be the subject of debate by the Committee.

Voting Procedures

29. The Chair will bring the Committee to a vote when they consider that there has been sufficient debate of an item.
30. The Committee will vote on the recommendation set out in the report, unless a motion has been made and seconded to defer consideration of an item (for example for a site visit or for further information/advice).
31. If a Committee Member wishes to amend the recommendation (such as an additional condition or a variation to a condition) they will need to move this, have it seconded and decided, prior to any vote on the recommendation. A recommendation cannot be changed (e.g. from approval to refusal) in this way.
32. For the vote on the recommendation (or an amendment to the recommendation) to be successful there needs to be a majority vote in favour of it. In the event of an equality of votes, the Chair has an additional, unconstrained casting vote. This can be exercised irrespective of whether the Chair voted.

Decisions Contrary to Officer Recommendation

33. A motion to go against the recommendation must always be considered after a vote on the recommendation (or an amendment to the recommendation) has taken place, so that officers are clear that the Committee may be minded to go against their recommendation and can prepare their advice accordingly.
34. When the recommendation is not supported, a new motion to either grant or refuse the application must be moved and seconded. However, before a new motion is proposed, the Committee must first receive advice from the Head of Planning as to what form a new motion should take. That advice will be based upon the development plan, the material planning 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.

35. Members must give tenable and substantiated reasons when refusing and approving planning applications. Officers must ensure that Members are fully aware of the reasons for their recommendation and the implications for the Committee of a decision against the recommendation – this would include the cost implications of any appeal.
36. The legal officer advising the Committee may be called upon as necessary to give advice on legal matters but will not advise the Committee on planning matters within the remit of the Head of Planning.
37. Once the Committee has received the advice of the Head of Planning they can proceed to a vote. A detailed minute of the Committee's reasons for going against the officer's recommendation shall be made, which as a matter of law, must be clear and convincing. The decision should take the form, "That authority is delegated to the Head of Planning to refuse planning permission for the following summary reasons:"
38. If the Head of Planning considers that they are unable to give that advice immediately in the meeting, further consideration of the matter will be suspended, and the agenda item will be deferred so that the Chief Planning Office can bring a further report to the next available Committee setting out their advice.
39. In such cases, it will be important that the Chair communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Planning Committee.

Deferred Decisions

40. If the Committee decides to defer consideration of an item to a later meeting the following procedures shall apply depending on the reason for the

deferment. At the time of deferral, the Chair shall identify which procedure is likely to be followed at the deferred meeting.

41. If the Committee defers making a decision for further information (such as a site visit or for clarification of or further advice on a matter) or a minor change to the proposal (defined as a change that officers decide that consultation with the public on it is not necessary) then at the deferred meeting members of the Committee will effectively continue their consideration of the item. This means that:

- in line with the principle set out above under Attendance During Committee, only those Members present at the meeting when the matter was first considered, and at the deferred meeting may vote on the matter; and
- in line with the Public Speaking Rights set out above, a further round of public speaking will not be permitted at the deferred meeting.

42. If the limitations set out above result in the Committee not being quorate, then the procedures set out in the next paragraph shall apply.

43. If the Committee defers making a decision in order to seek substantive new material or a material change to the proposal (both defined as an addition or change that officers decide that consultation with the public on it is necessary) the Committee shall consider the item afresh at the deferred meeting. Officers will present the item in full, including the new material. Public speaking will be permitted in line with the Public Speaking Rights set out above. All Members present at the deferred meeting when the item is reconsidered may vote on it.

Site Visits

44. Site visits are for Members of the Planning Committee to observe the site and gain a better understanding of the impact of the development.

45. Site visits should follow established criteria. A copy of the criteria is attached as Appendix 1. A Protocol for site visits should be followed which is attached as Appendix 2.

46. It is recommended that all Planning Committee Members should attend site visits.

47. Planning Committee Members with an interest in an application should not attend the site visit for that application.

APPENDIX 1

Criteria for Planning Committee Site Visits

1 The Purpose of Site Visits

1.1 The purpose of a Site Visit is to:-

- enable Members of the Committee to obtain a fuller appreciation of the likely impact of proposed development, which may not be apparent from the officers' report and presentation or from a public vantage point outside the site, so as to inform better decision making in respect of that application;
- to enable Members of the Committee to assess the impact of schemes that they have previously approved so as to inform decision making in the future (site visits to implemented schemes).

1.2 The purpose of a Site Visit is not: -

- to allow ward Councillors, applicants, objectors or other members of the public to lobby Members of the Committee, nor
- to duplicate or check up on the site assessment made by the planning case officer.

2 Protocol for calling for Site Visits

2.1 Any Planning Committee Councillor is entitled to make a request for a site visit explaining how they consider their request meets the criteria set out above. It will be entirely at the discretion of the Committee to decide whether it wishes to carry out a site visit in that particular instance.

2.2 A request for a site visit may be made by a Planning Councillor either at Planning Committee, at an Officer-Councillor Briefing or by written request in advance of an Officer-Councillor Briefing. Officers may suggest or formally recommend that a site visit be made. A site visit will be held if the majority of councillors, present at the time when the request is considered, agree. Should

a site visit be agreed the planning application will be heard at, or deferred until, the next Planning Committee following the site visit.

- 2.3 Members will be encouraged to identify potential cases for Committee site visits at the earliest possible occasion so as to avoid unnecessary deferments.

APPENDIX 2

Protocol for Site Visits by Planning Committee

1. Authorised attendance at a site visit shall be limited to elected Members of the Planning Committee, a representative of the Corporate Director - City Operations and the applicant or their representative. Councillors representing the ward in which the application is located or adjacent wards affected by the application will also be invited to attend.
2. There shall be no discussion of the merits of any application during the site visit. Such discussions will only take place at a meeting of the Committee.
3. During the site visit Members should endeavour to remain in a group and must not enter into individual discussions with the applicant, the applicant's agent or any objector, supporter or ward Councillor.
4. The applicant, objectors, supporters and ward Councillors shall be treated equally during the site visit.
5. Neither the applicant, nor their representative nor any objector, supporter or ward Councillor shall be permitted to make representations to Members of the Committee during a site visit, but they may, however, give any purely factual information which is required by Members and which cannot be ascertained by viewing alone.
6. Site visits are normally arranged for the afternoon of the day immediately prior to the following Planning Committee. It is the responsibility of the case officer to:

- a. Notify the applicant/owner of the site that a visit is to take place and explain the procedure;
- b. Liaise with the Clerk to the Committee regarding the time and place of the visit so that a letter can be sent with the next agenda notifying Members of the visit.
- c. Ensure that the report is included on the next agenda.

