

Standards Committee : 9 March 2010

Title of report: Proposed adoption of a revised and updated protocol for speaking at planning committees and sub-committees

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Is it in the Council's Forward Plan?	N/A
Is it eligible for "call in" by Scrutiny?	N/A
Cabinet member portfolio	Corporate

Electoral wards affected: All

Ward Councillors affected: N/A

Public or private: Public

1. Purpose of Report

To consider the attached draft Protocol for Public Speaking at Planning Committees and Sub-Committees and refer to the Planning & Highways Committee for consideration.

To recommend to Council adoption of the attached draft Public Speaking Protocol.

2. Key Points

It is essential that the Council's planning committee and sub-committee meetings operate properly, lawfully and effectively and are seen by all parties involved in the process to do so. Decisions must be made fairly, openly, impartially and for justifiable planning reasons. Failure to do so not only exposes both the Council and individual councillors to potential criticism and allegations of improper conduct, but can also increase the likelihood of legal challenges being mounted through the courts or complaints being made to the Ombudsman.

The need for proper processes to be followed and for the rules of natural justice to be observed is particularly important at planning committee and sub-committee meetings which are open to the public and can be highly charged with emotion.

A public speaking protocol providing guidance for all those wishing to attend and participate in planning committee and sub-committee meetings has been in existence for a number of years. This protocol has now been revised and updated (all proposed changes are shown italicised and underlined) to provide clearer advice to members of the public on the procedures that will be followed and how the meetings will be conducted by the Chair. The main changes are as follows:

- Clarification of the time limits that will apply to members when attending committee meetings to make representations as ward councillor
- Clarification that PowerPoint presentations will not normally be permitted.
- Clarification that members of the public should not attempt to pass messages to any members of the committee during the meeting.
- Introduction of a deadline for receipt by the LPA of additional documents/information that members of the public may wish to rely on in support of their presentations. This is intended to prevent the last-minute circulation of information at the committee meeting.

3. Implications for the Council

The Council should have appropriate protocols in place to ensure that its planning committees and its sub-committees are conducted in a fair, open and businesslike manner.

4. Consultees and their opinions

Various officers in Legal Services, Planning and Building Control and the Policy and Governance Service have been involved in discussions regarding the proposed revisions to the protocol. The Chairs of both of the Area Planning Sub-Committees, the Chair of the Planning & Highways Committee and the leaders of the political groups have all been consulted. Responses to those consultations are incorporated in the attached draft protocol.

5. Officer recommendations and reasons

That the Standards Committee consider the attached draft protocol and refer it to the Planning & Highways Committee for further consideration and thereafter that the draft protocol be referred to the Corporate Governance & Audit Committee and then Council for formal adoption.

6. Cabinet portfolio holder recommendation

N/A

7. Next steps

If approved by this Committee, the draft public speaking protocol will be referred to the Planning & Highways Committee on 19 April 2010, then to the Corporate Governance & Audit Committee on 14 May 2010 and then to Annual Council on 26 May 2010 for formal approval.

8. **Contact officer and relevant papers**

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Background Papers:

N/A

PLANNING BUILDING CONTROL AND LICENSING SERVICES

PROTOCOL FOR PUBLIC SPEAKING AT PLANNING COMMITTEES AND SUB-COMMITTEES

Kirklees Council has two Planning Sub Committees, each meeting on a 4 weekly cycle. The Planning Sub Committee (Heavy Woollen Area) usually meets in Dewsbury Town Hall, and the Planning Sub Committee (Huddersfield Area) usually meets in Huddersfield Town Hall. These are both sub-committees of the Planning & Highways Committee. The meetings commence at 1.00pm. Both venues have public seating areas, where members of the public are able to observe how the decisions on planning applications are made.

Less than 10% of all planning applications are decided at Committee/Sub-Committee. Most are determined by Officers within a delegation scheme as agreed by the Council. However, the applications that are decided by Councillors are usually the most contentious, often relating to large development sites, or proposals that have attracted a lot of public interest. Members of the public are able to address the Planning Committee/Sub-Committee on any application which they are to consider in order to present their own views on the application.

Applicants for planning permission and/or their representatives are also allowed to present their views to the Committee/Sub Committee.

If you wish to speak at a Committee/Sub Committee meeting, please aim to arrive by 12.45pm in order to register before the meeting begins. The Town Hall Reception staff will be able to direct you to where the meeting is being held.

The Governance Officer present at the meeting will ask to know your name, the application on which you wish to speak and the capacity in which you will be speaking. Please note that it is not possible to register by telephone prior to the meeting.

You should not normally circulate documents to the Committee/Sub-Committee in support of your presentation that you have not previously made available to the planning case officer responsible for the relevant planning application at least 48 hours before the start of the Committee/Sub-Committee meeting (eg. for meetings commencing at 1pm on Thursdays, the deadline for receipt of additional documents/information etc will be 1pm on the previous Tuesday). This is because all parties may not have time adequately to respond to and address the issues raised in those submissions. In particular, members of the committee are unlikely to be able to give proper consideration to the matters raised and officers are unlikely to be able to provide considered advice on any material considerations. The planning case officer will ensure that the additional information/documents are circulated to all members of the Committee/Sub-Committee in advance of the meeting.

Procedure for the Meeting

- The Chair will begin the meeting at 1.00pm. There will be a number of constitutional items on the agenda that will be dealt with first. The Committee/Sub Committee will then progress to consider the schedule of Planning Applications.
- At the beginning of each application the Chair will indicate which application is to be dealt with. The Planning Officer will make a short presentation and propose their recommendation. Chair will then invite members of the public who have registered to speak to address the Committee/Sub-Committee. The Chair will have a list of speakers who have indicated that they want to comment on the application, and he/she will call your name at the appropriate time. Local residents and objectors will be called to speak first, followed by any other interested parties, for example, applicants or their agents.
- Your case should be concisely made, concentrating on the 'planning' issues that the Members of the Planning Committee/Sub-Committee can take into account, such as,
 - *The planning history of the site*
 - *The visual impact of the development*
 - *Effect on public amenity*
 - *Access, traffic and highway considerations*
 - *The impact on listed buildings, conservation areas, or protected trees.*
- Matters that cannot be taken into account include,
 - *Effect on property values*
 - *The character or identity of the applicant*
 - *Boundary or property disputes*
 - *How the application affects a view (as opposed to the wider affect on public amenity)*
 - *Issues of commercial competition*
- *Your presentation to the Committee/Sub-Committee should reinforce and amplify the representations on the application that you have already made to the Council in writing.*

Once all representations have been made, the Committee/Sub-Committee will then consider the application. Officers may be asked for more information, or to respond to specific questions, but further comments from members of the public, applicants or agents will not normally be taken, unless the Chair invites further comment. Voting on an application will normally be by a show of hands. *However, in some instances, the Chair with the support of two other members of the Committee/Sub-Committee, may request that a recorded vote is taken.*

Please note;

- You will have a maximum of three minutes to present your case to the Sub Committee and a visible timing system will be in operation to assist you. (unless you are an elected member to whom CPR 36 is applicable). The Chair may have to ask you to conclude your presentation if the allotted time has been exceeded.

(Councillors who attend committee as observer under Rule 36 of the Council Procedure Rules or members of the committee who choose to make representations as ward councillor rather than participate in the determination of an application will be bound by the relevant time limits set out in CPR 36).

- You will not normally be permitted to make power point presentations.
- The number of people who will be allowed to speak is at the Chair's discretion, and his/her decision is final. If there are a large number of attendees who wish to comment on the same application, the Chair may ask the group involved to organise a representative so that the case for/against may be put collectively.
- Any representations should be directed to the Councillor who is 'Chairing' the meeting. By convention, this person is addressed as 'Chair'. If you refer to a Member of the Council, then the correct way to do this is to refer to them as 'Councillor (surname)'. Dialogue between members of the public and Members of the Committee or Officers is not permitted once the meeting has started.
- Direct questioning of individual committee members or officers will not be permitted. Any comments must be made to the Chair of the Committee.
- You should not pass messages to members of the Planning Committee before, during or after your presentation.

Agenda for the Meeting

The agenda for the meeting is available one week in advance of the meeting and can be viewed on the Kirklees Website. If you require any assistance in accessing the information, or would like to receive a hard copy of a report, please contact the Governance Officers whose details are provided.

An update is also usually circulated prior to the beginning of the meeting. This will provide details of any amendments made to the applications, further consultation responses and representations received since the formal agenda was published, and may include legal advice from officers to councillors on any issues that have been raised in those representations. However, the update should be brief and not raise wholly new issues.

Additional Information

Decisions on planning applications can be challenged by the applicant making an appeal to the Secretary of State. In the English planning system, third parties e.g. objectors to the application, have no rights of appeal against the decision but may in appropriate circumstances seek to have the decision judicially reviewed in the High Court.

However, the Local Government Ombudsman can investigate any claims that the Council did not follow its own procedures, or allegations of impropriety. Ask a Council Officer for more information if you are considering approaching the Ombudsman.

Contacts:

Governance Team

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Huddersfield Area Sub-Committee (David Gordon)	01484 221714

Planning Services

Development Control	01484 414746
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Legal Services

Heavy Woollen Area Sub-Committee (Jo Kingham Slater)	01484 221504
Huddersfield Area Sub-Committee (Deborah Wilkes)	01484 221503