

COUNCIL – 21 JULY 2009

CABINET REVIEW OF DEVELOPMENT SERVICES

Please note that Appendix I is an exempt item and is not for publication by virtue of para 1 of schedule 12 a of the local government act 1972 as amended, paragraph 5.

Report of the: Community and Planning Services Director

Also considered by: Cabinet 09.04.09 and the Modern Local Government Group

Status: For Decision

Executive Summary:

This report presents the findings of the Development Services Review, specifically the Cabinet-led work strands. The report highlights actions taken to date and seeks Full Council approval of specific proposals.

The report makes a number of recommendations about in-house procedures as well as the operation of the Development Control Committee, the Council's Scheme of Delegation and related formal procedures, which require Full Council approval.

This report supports the Key Aim of a Green Environment – protecting the District's open spaces and built environment, and also the Corporate priority to deliver the budget and sound resource management.

Portfolio Holder Cllr. Williamson

Head of Service Head of Development Services – Jim Kehoe

Recommendation: It be RESOLVED that:

The proposed changes to the operation of the Development Control Committee and Scheme of Delegation and related formal procedures set out in the report be approved.

Introduction

- 1 Members will be aware that the Development Services Review sought to bring about improvements to the Council's Planning functions through enhanced customer service, performance standards and value for money.
- 2 At its 9th April 2009 meeting, Cabinet endorsed proposals emerging from the Development Services Review and these were referred to the Environment Select Committee meeting of 14th April 2009.
- 3 After taking into account the comments of the Environment Select Committee, at its meeting of 11th June 2009 Cabinet resolved:-
 - a) That the findings and recommendations of the Development Services review be approved;
 - b) That Full Council be recommended to approve the proposed changes to the operation of the Development Control Committee and the Scheme of Delegation and related formal procedures set out in the report; and
 - c) That the Portfolio Holder for the Built Environment be authorised to approve further changes to the Council's procedures related to the Development Services Review, including the Development Control Protocol which are to be recommended to Full Council for adoption.
- 4 On 1st July 2009, the Portfolio Holder for the Built Environment approved further proposed changes to the Council procedures, including the Development Control Protocol (Appendix N of the Constitution). These are incorporated into this report.
- 5 The main subjects of this report are the proposals for:- Member/Officer Relationships; Delegations; Development Control Committee; Appeals; Recruitment; and Use of Consultants.
- 6 The remainder of this report is structured to reflect these topic areas. In each section there is a summary of the work to date, the main issues that were addressed, proposed recommendations and service benefits achieved. These proposed changes have been a subject of dialogue with Cabinet Members and reflect the aspirations of Cabinet Champions for each work area. Specific recommendations are highlighted in each section in italics.
- 7 Implementation of the proposals as a whole should bring about a step change improvement in planning application performance as measured against NI 157 and enhance customer satisfaction, when added to the recent Key Achievements set out in **Appendix A**.

PERFORMANCE TARGETS FROM 2010/2011 ONWARDS	
NI 157	Top Quartile
Customer Satisfaction	Top Quartile
This is subject to full implementation of the Development Services Review	

- 8 It should be stressed that the findings and recommendations of the Review need to be considered as an item as many of the actions are interdependent. Choosing not to implement one recommendation may have adverse repercussions for other areas. For example, one of the recommendations is to reduce the number of Consultants in the Planning Service to save expenditure. However, this is dependent on a training programme which will require investment. This interdependence between the work streams is a key factor in the Development Services Review.
- 9 The comments of the Environment Select Committee as represented by Actions in the minutes of its 14th April 2009 meeting, are attached as **Appendix B**, together with suggested changes in response that were considered by Cabinet. . The Cabinet Recommendations are included in full below as is the supporting text so as to avoid the need to cross-reference to previous reports.

Member/Officer Relationships

- 10 The purpose of this part of the Review was to focus on Member/Officer Relationships and methods of working. It covered the building of trust between Members and Officers, defining their complementary role and establishing realistic Member and Officer expectations of each other. This section was led by Cllr Fleming.
- 11 The main finding of this work strand was that the quality of Member/Officer Relationships has an important impact on key service objectives including performance (eg time taken to determine planning applications), customer service and value for money.

Recommendations:

- *To provide training for Councillors on planning matters, eg, Development Control Committee Member Training; KCC Highways advice; Councillor assessment of completed development; joint Councillor and Officer Training on new regulations and guidance; and training for Councillor roles and appropriate boundaries in respect of Officer relationships in conjunction with the Code of Conduct.*
- *Training on Planning Policy and Development Control should be compulsory for all new Members of the Development Control Committee and thereafter Members should be encouraged to keep their skills up-to-date.*

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- *Cabinet in conjunction with the Development Control Committee should set out an annual planning training programme for Councillors and should specify any compulsory elements therein, the content will be guided by best practice advice (eg Planning Advisory Service).*
 - *Joint Committee/Officer training be held on the Council's Constitution as related to Planning, (including relevant protocols).*
 - *To introduce longer standard "hours of Officer availability" by telephone to Councillors and Customers.*
 - *To expand the Planning Applications information available to Councillors and Customers on the Council Website.*
 - *To continue to provide quarterly performance data to Development Control Committee.*
 - *To undertake regular surveys of Customer Satisfaction in Planning, including public meetings, eg, the accommodation, layout and meeting interval of the Development Control Committee.*
 - *That declarations of lobbying and pre-determination must be made at the start of the Development Control Committee and request that copies of lobbying materials received are where practical, forwarded to the Case Officer or Head of Development Services.*
- 12 The benefits of these proposed recommendations will be better Officer/Member relationships, better trained Members, better quality decisions taken at the Development Control Committee, reduced risk of challenge to decisions and better Officer availability.

Delegations

- 13 The delegations strand was led by Cllr Mrs Davison and its scope was to review the Scheme of Delegation including the efficiency and effectiveness of the current arrangements, current understanding of the operation of the Delegation Scheme and the Member/Officer protocol, monitoring arrangements and review of Planning Advisory Guidance. The group canvassed views of Officers and Members about the effectiveness of the current Scheme of Delegation and has assessed and analysed the Schemes of Delegation elsewhere.
- 14 The Review concluded that the existing Scheme of Delegation is confusing, complex, difficult to operate and difficult to understand. There are inconsistencies between the Delegation Scheme and Member/Officer Protocol. The suggested Revised Scheme of Delegation is shown in **Appendix C** and would replace the existing arrangements in both the Delegation Scheme and the Protocol.

Recommendations

- *Establish a single Scheme of Delegation written into the Council's Constitution.*

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- *Councillor Call-In Procedure will be clarified and simplified by setting out a clear deadline within which to request referral of an application to Development Control Committee.*
- *Written planning reasons will be required to justify call-in.*
- *These matters to be implemented as set out in **Appendix C**.*

15 The benefits of these changes will be greater transparency and clarity for Officers and Members about delegation procedures. It should also help improve performance by better defining and frontloading the period within which a Member can request call-in, and potentially reduce the size of the Development Control Committee agenda and the length of time of meetings.

Development Control Committee

16 The Review of the Development Control Committee was led by Cllr Mrs Hunter and Cllr Williamson. Its scope was divided into three focus areas – pre-meeting; at the meeting; and post-meeting. The existing processes were mapped and scrutinised to establish which aspects currently work well and where opportunities for improvement existed. We visited other Councils to compare processes and establish good practice.

Recommendations

- *That consideration be given to introducing a three-weekly Committee cycle after the Development Services Review recommendations have been implemented, meanwhile the cycle is to remain at four-weekly.*
- *Improvement of the checking procedure to ensure that the completed agenda is checked prior to dispatch.*
- *Location plans only will be appended to reports.*
- *The electronic agenda will include hyperlinks to take readers directly to the relevant Public Access pages.*
- *Improve the appearance of the electronic presentation and provide two further screens in the public gallery to enable visitors to follow the presentation.*
- *Format of the meeting and structure of the debate will be simplified. This will include Officer introduction to items, clarity of Ward Member role in debates and removal of outdated procedures. (Proposals are set out in brief at **Appendix D** and in more detail in **Appendix E, F and G** and would replace the existing arrangements in the Development Control Committee procedures and Protocol).*
- *Introduction of process note to aid visitors understanding of the format of the meeting.*
- *Membership of Committee to remain at 19, (to be kept under consideration alongside the length of Committee cycle).*

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- *Pre-Committee Member training sessions to continue.*
 - *Site meeting procedures to be replaced with a pre-Committee Site Inspection comprising of a simple site visit without a debate.*
 - *Minutes and actions arising from the Committee to be agreed on the Friday morning following the meeting.*
 - *Officers to complete a procedure note covering the conduct of site visits.*
- 17 These proposed changes should make the Committees easier to understand, less complex and shorter. They would be robust to withstand challenge and comply with agreed standards of probity set out in the Nolan Review, Royal Town Planning Institute Guidance, and LGA Probity in Planning (2009).

Planning Appeals

- 18 The scope of this topic area covered efficiency, including cost efficiency and effectiveness. Key issues included: gaining comparative performance detail from other Local Planning Authorities'; assessment of other Local Planning Authorities' procedures and the impact this may have on the performance figures; and identifying variations in performance. An examination of reliance upon external Consultants was undertaken. This work stream is being led by Cllr Mrs Clark and Cllr Loney. The work strand concluded that administratively the service is efficient and during the last five years the annual target for appeals allowed was only missed twice during periods when the department placed heavy reliance upon external Consultants due to staff turnover.
- 19 However, over the past five years over £233,000 was spent on Planning Consultants to carry out Informal Hearings and Local Public Inquiries. Sevenoaks District Council now has experienced Development Control Officers in-house who could carry out this work. This service has not been cost effective to date compared with other Councils who carry out the work in-house.

Recommendations

- *Scan all Appeal documents with immediate effect.*
- *Priority booking of the Conference Room for informal hearings and the Chamber for Public Inquiries.*
- *Deal with all planning appeals where practicable utilising in-house staff.*
- *Provide on-going training for in-house staff in both informal hearings and public local inquiries.*
- *Change job descriptions of all Development Control Staff to enable them to take part in public inquiries and hearings.*
- *Training for all Members on Appeals.*
- *Quarterly reporting of Appeal statistics to Development Control Committee.*

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- 20 These recommendations should reduce the use of external Consultants and thus the risk of overspending in this area in future years. This is particularly true of the reduced reliance on Consultants and the priority room booking recommendations. Scanning should help improve access to appeal statements. More use of in-house staff to act as witnesses at appeals will boost morale and staff retention, and better training should improve the quality of decision making.

Recruitment

- 21 The recruitment strand was lead by Cllr Ramsay and sought to review key issues in recruitment and retention and to consider internal and external factors when looking at suggestions for improvement. Clearly, recent changes in the economic climate have had a beneficial effect on recruitment. The following recommendations are long-term areas for action which should assist the Council in times of a recovering economy.
- 22 During the project recruitment to the key post of Development Control Manager was undertaken. Through planned and strategic succession planning by the Development Services Team this post was filled internally by one of the current Team Leaders. A benchmarking exercise was undertaken with the other Kent Local Authorities to ensure our salaries and benefit packages for Development Control Staff remained market competitive. The Development Services Team have continued to reduce their sickness absence levels. This has led to increased capacity and opened up training and mentoring opportunities for junior staff.

Recommendations

- *Produce a retention and workforce training strategy for Development Control and Policy.*
 - *Develop a bespoke training and development framework for all Kent Planning Staff in conjunction with the Kent Strategic Board.*
 - *Examine the merits of a bespoke on-line recruitment portal.*
 - *Continue to benchmark Development Services Salaries and Benefits packages, with other comparable organisations.*
 - *Develop a detailed exit survey.*
 - *Continue investigation and evaluation of cost efficient partnership initiatives both County-Wide and with neighbouring Districts.*
- 23 The recruitment position is healthy in Development Services at present, with no vacancies and a reduced reliance upon Consultants. This is a reflection of the current market and it is essential that these recommendations are implemented to ensure that the Department is well placed in an economic upturn.

Use of Consultants

- 24 The use of Consultants work-stream was led by Cllr Mrs Bracken. The scope of this group was to review the use of specialists, Consultants for appeals, the cost of Consultants, procurement issues and alternative options to the use of Consultants. The principal conclusion of this work strand was that there is scope to reduce our use of Consultants significantly if we invest in staff training and support.

Recommendations

- *Arrange compulsory training to increase the skills of existing staff in relation to design, urban regeneration and development briefs.*
 - *Produce a retention and workforce training strategy for Development Control and Policy in line with the recommendation in the recruitment and retention strand above.*
 - *Produce a procedure manual for dealing with major applications.*
 - *Use Consultants for specialist tasks and recoup the costs of Consultants where justifiable.*
 - *Investigate the use of Planning Performance Agreements.*
 - *Highlight options for dealing with windfall sites in Policy terms, eg, sites needing development briefs.*
 - *Review procurement procedures in Development Control.*
- 25 These recommendations would benefit all work undertaken by Development Control on major projects and there is considerable scope to reduce our use of Consultants. A £10,000 investment on an initial intensive training course could reduce expenditure by a further £10,000 per year and support existing staff.
- 26 Additional costs for providing training should be easily off-set by the reduction in spending on Consultants. It should be noted, however, that some use of Consultants will continue in specialist areas, eg retailing, where it would not be cost efficient to bring the technical expertise in-house.

Options (and Reasons for the Recommendation)

- 27 To reflect its aspirations for the Planning Service, Cabinet recommends to Full Council the changes in Delegations, Development Control Committee and the Development Control Protocol, and the other proposals as set out in this report.
- 28 The proposals are consistent with the recently published Local Government Association document 'Probity in Planning' (2009) and update the Council's procedures accordingly.

Key Implications

Financial

- 29 Expenditure on Development Control and Planning Appeals has increased significantly in recent years, from a budget of £646,000 in 2005/6 to net expenditure of £1,075,000 in 2008/9. There have been adverse variances against budget for these services in each of the past four years. In 2005/6 to 2007/8 this was mainly due to the use of agency staff and Consultants to cover staff vacancies and for planning appeals. In 2008/9 the variance is mainly due to the downturn in fee income. The successful recruitment of permanent staff and the implementation of early stages of this Review have already reduced the use of agency staff and Consultants. 2008/09 shows a net overspend of £163,000.
- 30 The approved budget for 2009/10 and projections to 2012/13 are set out in **Appendix H**. This shows net expenditure on development control and appeals reducing over the next three financial years, as approved savings in staff costs are implemented.
- 31 Members should note that to continue to reduce the use of Consultants, and so stay within the approved budget, some investment in training is required, in order to skill staff to undertake tasks currently delivered by external experts. It is estimated that this training would incur a one-off cost of £10,000 in 2009/10. Every effort will be made to fund this from the existing Development Control budget, but it may be necessary to come forward to Members later in the year with a request for a supplementary estimate.
- 32 Given the uncertainties in the economic climate at present Development Control income budgets should be considered a risk area for next year.

Legal, Human Rights etc.

- 33 Many of the proposed changes are required to fulfil the Council's statutory responsibilities and implement legislative changes in relation to Development Control.

Resource (non-financial)

- 34 The Development Services Review has required significant input from staff resources located within Planning and other services across the Council. Implementation of the recommendations will require on-going commitment from staff.

Value For Money and Asset Management

- 35 One of the key aims of the Development Services Review was to ensure that available resources are used in the most effective and efficient manner, and to improve customer satisfaction and performance against national indicators. All of the recommendations set out in this report will contribute to the efficiency and effectiveness of the service. In addition, performance indicators will be introduced on caseload per Development Control Case Officer.

Conclusions

- 36 There has been good progress made to date in the Development Services Review through the introduction of new processes, procedures and IT systems, together with an organisational restructuring and improved accommodation arrangements. The staffing position has stabilised and there has been tangible improvements in performance. The required step-change in performance will only be achieved through the implementation of these recommendations.
- 37 The implementation of the findings of the Review will ensure that Sevenoaks District Council has a good opportunity to become an excellent Authority in the provision of its Planning Services.

Risk Assessment Statement

- 38 Failure to implement the recommendations outlined above would mean that Development Services would continue to fail to meet performance targets and statutory obligations, morale would decline and complaints to the Ombudsman would increase.
- 39 The current operation of the Development Control Committee may be open to the risk of challenge.

Sources of Information: Development Services Review Project Files
Local Government Association “Probity in Planning” (2009)

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Officer Led Work Packages

Key Achievements over the last few months

Accommodation

Following changes to the Development Control Team structure, the office move has resulted in individual Teams being located in coherent areas with relevant Line Managers in close proximity. This has improved communication. Processes in general have been made more efficient due to the more organised and structured nature of filing and supporting physical information, called on by staff in the course of their duties.

Pre-Applications

A step-by-step guide of how to deal with pre-application enquiries electronically has been added to the Development Control Manual. The manual instructions are complete and include how to access, respond and close pre-application enquiries. Officers can also upload photos and other electronic documents.

There is now a complete system for tracking and auditing pre-application and general correspondence therefore making it easier for Officers to find correspondence once filed. All correspondence can be viewed electronically through Uniform and this is marked against the property address through the UPRN and GIS mapping systems. It is flagged up that there has been pre-application discussions on any subsequent planning applications.

Format of letter responses are all now the same through the Uniform template with standard footers, headers and caveats. By producing a more formal system with target dates for response on individual files, Officers are finding it easier to manage and prioritise their workloads and replying more speedily to customers.

Statutory Requirements

So far there has been identification of what is required on a statutory register. All decision notices from 1974 to present have been put onto IDOX. It is hoped to have decisions notices from 1948 to 1974 scanned and put onto IDOX. Work is progressing on the transfer of 1988 Planning Applications and has commenced on the transfer of some appeal records from old systems to the Uniform system. This will ensure more consistent access to records.

A risk assessment has been produced for the destruction of paper based Part One files where information is held in IDOX. Once files are held in IDOX, a programme will be put in place to destroy paper based Part One files which are no longer required as part of the statutory regulations on a regular two/three monthly basis.

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Telephone Access

All automated letters have been checked to ensure that correct customer contact numbers and times are shown. Roles and responsibilities for drainage enquiries have been clarified and updated to the Sevenoaks District Council Website. The change in culture in respect of telephone call answering is being achieved across Development Control with a greater understanding in ownership of everyone's responsibility in improving customer telephone access. Contact with Planning Officers is now achieved via the Contact Centre rather than directly as before. This will save professional Officer time as the Contact Centre filter out and handle routine enquiries.

Website Improvements

All current content was initially reviewed by relevant Planning Officers and out-of-date information was removed or rewritten. The layout and format of planning pages was then critically reviewed and key areas for improvement were identified. Seven web editors have been allocated sections of the planning pages to keep up-to-date and regularly review the content and make changes where appropriate.

Benefits to customers include quicker access to Public Access, up-to-date information, clear planning processes laid out for various situations, less chance of submitting an invalid application and ease of navigation around the site. Benefits for Officers include fewer telephone calls from the public asking basic questions, quicker access to Public Access, better quality of planning applications and a quick reference point for Planning Officers.

Enforcement

There is improved performance reporting and monthly performance information is provided in the form of graphs which are easy to produce and understand.

Improved information is available to the public on the Council's website. It has been ascertained what information is required on Public Access and how best the information may be captured for Public Access.

Validation Team

The Development Services Review highlighted the need for a dedicated Validation Team to improve performance and quality of Validation process. All applications are now fully validated by the Validation Team with effect from 1st January 2009 and applications are allocated to Officers by Area Team Leaders on a daily basis to ensure timely acknowledgement.

Regular in-house training sessions have taken place and liaison between the Validation Team and Planning Officers with an emphasis on the Validation Team taking responsibility for Validation and acting as point of contact with applicant and/or agent. The process has improved and is more consistent since adoption of national and local Validation checklists. Desk instructions for all processes are in place to ensure consistency and continuity, and all Validation Assistants are expected to carry out all tasks once trained.

Section 106

No formal procedure existed for the capture or monitoring of developer contributions. As a result it was important to develop Member and Officer appreciation and understanding of the opportunities that planning obligations can offer.

The Review has brought about training for Local Members and Parishes, a procedure has been introduced to assist Officers in the management of the planning obligation process, template obligations will be produced and made publicly available and a monitoring database will be created and managed by the Planning Enforcement Team.

This will result in greater consistency and clarity within the obligation process and enable Officers to maximise the benefits that can be achieved from development proposals.

Planning Expert System

The Planning Expert System is a software system that predicts if planning permission is required for a particular development. The system has been tested by Officers for reliability and the findings fed back to the suppliers. The suppliers have amended the system and its accuracy has improved. Further testing of the system will be undertaken before it goes live.

Suggested Response to Environment Select Committee Comments of 14th April 2009

Member/Officer Relationships	
Environment Select Committee Comments	Suggested Response by Cabinet
<p>ACTION 1 Members requested that the bullet point related to surveys be amended to read ‘public satisfaction’ instead of ‘customer satisfaction’.</p> <p>The Committee discussed in detail practicalities of declaring lobbying.</p> <p>ACTION 2 The Committee requested that the words ‘where practical’ be emphasised with regard to declaration of lobbying material.</p> <p>Resolved: That Cabinet be recommended;</p> <p>a) To note the above actions; and</p> <p>b) That joint workshops be held to ensure that all Members and Officers were fully aware of their obligations under the Development Control Members and Officers Protocol.</p>	<ul style="list-style-type: none"> • Action Point 1 – the term ‘Customer’ be retained rather than changed to ‘public’ as some Customers may be internal to the Council and because this term is used in the established national indicators. • Action Point 2 – the words ‘where practical’ be emphasised as requested. • Joint Member/Officer workshops be held on planning policy and practice, such as changes to national or development plan policy, and the Council’s Constitution as related to Planning (including relevant Protocols).

Delegations	
Environment Select Committee Comments	Suggested Response by Cabinet
<p>ACTION 3 It was requested that the footnote of Appendix B to the report be amended to read ‘ Chairman and/or Vice Chairman...’.</p> <p>An amendment to the recommendation of the Development Control Members Working Group was moved and lost.</p> <p>Resolved: That it be recommended to Cabinet;</p> <p>a) To note Action 3 above;</p> <p>b) That the proposal for a time limit for referrals be supported as long as such limit was practical;</p> <p>c) That referrals should not need to have the approval of the Development Control Committee Chairman; and,</p> <p>d) That the existing rules for referrals from two or three Member wards be maintained unaltered.</p>	<ul style="list-style-type: none"> • The process for referring cases to the Chairman or Vice Chairman of the Development Control Committee be removed. This was previously set out in a footnote. • The footnote be replaced with one that gives advice on ‘planning reason’. • Footnote – a Planning Reason includes accordance with a relevant Development Plan policy or a material planning consideration. • In the event of queries over the definition of a Planning Reason, Officers are available to offer impartial advice. • The existing rules for referral would be replaced by those set out in Appendix C.

Development Control Committee	
Environment Select Committee Comments	Suggested Response by Cabinet
<p>a) That the recommendations of Cabinet for the procedural changes to Development Control Committee site meetings be referred back to Cabinet for further consideration;</p> <p>b) That Cabinet be requested to assure Members that involvement of Local Members with relation to planning applications would not be reduced; and,</p> <p>c) That Cabinet be asked to note the Committee's concerns with regard to the removal of the Vice-Chairman's role at Development Control Committee.</p>	<ul style="list-style-type: none"> • That the Development Control Committee cycle remain as a 4 week cycle, and that the Committee Membership remain at 19, (to be kept under review). • That a fuller account of the proposed changes be attached (Appendix D and E), which would alter the role of Local Members.

Planning Appeals	
<p>Resolved:</p> <p>That Cabinet be advised that the Environment Select Committee supports the recommendations of Cabinet with regard to planning appeals.</p>	<ul style="list-style-type: none"> • No changes – support noted.
Recruitment	
<p>Resolved:</p> <p>That Cabinet be advised that the Environment Select Committee supported the recommendations of Cabinet with regard to recruitment.</p>	<ul style="list-style-type: none"> • No changes – support noted.
Consultants	
<p>The Development Control Members Working Group had felt that the proposals were welcome, subject to the ongoing need to employ specialist Consultants where appropriate. In particular, the Group had pointed to the necessary use of highways/traffic Consultants previously recommended by the Environment Select Committee, when it had been felt that responses from Kent Highways had been inadequate.</p>	<ul style="list-style-type: none"> • The commissioning of specialist Consultants will be possible under the Development Services Review proposals, but no commitment to using a specific specialist can be given at this stage.

Proposed Delegation to the Community and Planning Services Director

Development Services

(a) To exercise all the powers and duties of the Council as the Local Planning Authority (including the conduct of appeals) under all Town and Country Planning legislation, subject to the following exceptions:

- (1) Where an application is submitted to Sevenoaks District Council for determination, it shall be referred to the Development Control Committee if any of the following apply.
 - (i) In the opinion of the Director of Community and Planning Services, the application is of a significant, controversial or sensitive nature.
 - (ii) It is proposed to determine an application which in the opinion of the said Director, would set a significant precedent.
 - (iii) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason¹, has been received from a Member of the Council no later than 21 calendar days following despatch of the weekly list of planning applications on which such applications appear, or such lesser period as may be notified by the Director of Community and Planning Services in relation to any application where a decision could not otherwise be made by Committee before the statutory deadline for determination.

Where amended plans and/or information of a significant nature (as determined by the Director of Community and Planning Services) are received on an application, an additional call-in period will be given, the period for which will be specified by the Director of Community and Planning Services to suit the circumstances of each case.

- (iv) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Member of the Council relating to an application in their Ward no later than seven calendar days following notification by the Director of Community and Planning Services of a proposed recommendation which is contrary to representations received in support of, or in objection to, an application from the Town or Parish Council for the area (subject to the arrival of such representations within the statutory consultation period).

¹ A 'Planning Reason' includes accordance with a relevant Development Plan Policy or a material planning consideration. The Head of Development Services or Development Control Manager will offer advice if necessary on an appropriate planning reason.

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- (v) An application known to have been submitted by, or on behalf of, a Member or an Officer of the District Council, or a member of their family².
- (2) Where the Council is a consultee to an application eg where an application is submitted to Kent County Council as the Mineral Planning Authority, the application shall be referred to the Development Control Committee if in the opinion of the Director of Community and Planning Services, it is of a significant, controversial or sensitive nature.
- (3) Enforcement action shall be referred to the Development Control Committee if either of the following apply.
 - (i) A request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Local Member ; or,
 - (ii) The Chairman or Vice Chairman of the Development Control Committee requires the case to be considered by the Development Control Committee.
- (b) To exercise all the Council's powers and duties with regard to Building Control under the Building Act 1984 and regulations made thereunder.
- (c) To take all necessary action to secure compliance with the Building Act 1984 and regulations made thereunder, including the service of statutory notices.
- (d) To institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Planning Acts Building Act 1984 and regulations made thereunder (including actions for injunctions).
- (e) To take all necessary action to defend legal proceedings against the Council.
- (f) To exercise all the Council's powers under the Criminal Justice and Public Order Act 1984.
- (g) To exercise the functions of the Council with regard to environmental improvements and access to the Countryside.

² A 'member of their family' shall include a partner (someone they are married to, civil partner or other person who they live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of their partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

AN OVERVIEW OF THE PROPOSED DEVELOPMENT CONTROL COMMITTEE MEETING FORMAT AND SITE INSPECTION PROCEDURE

Declarations of Interest Lobbying and Pre-determination must be made at an early stage of the meeting.

The Chairman identifies the applications with speakers and asks Members whether they want those without speakers to be debated.

Applications without speakers where no debate is requested are considered as per the Officer recommendation.

Applications

- 1) The Officer will introduce each item and outline the key considerations and constraints, summarise the consultation responses and representations and provide the recommendation.
- 2) Addresses to the Committee.

Public speaking: 3 minutes for and 3 minutes against the proposal.

Local Members will be invited to make their contribution. Local Members will address the Committee from the front of the Chamber and have 4 minutes.

Local Councils (Parish and Town Councils) will have 3 minutes to address the Committee.

Neither the Public, Local Councils or the Local Members will participate further in that application.

- 3) Members of the Committee will then have the opportunity to ask questions of the Officers present.
- 4) The Committee debates the planning merits of the proposal.
- 5) The Chairman concludes the debate and receives or proposes the motion to be voted on.

Should a motion be lost an alternative motion needs to be proposed and seconded and a further vote taken.

Site Inspections

A single Site Inspection time will be used for applications deferred by Committee and those identified for a pre-meeting inspection. This will usually take place on the day of the Committee meeting.

Sites for pre-meeting inspections should be identified to the Chairman by Development Control Committee Members a full 3 working days, (eg by 5pm on the Monday before a Committee at 7pm on a Thursday), before the Committee meeting.

When deferring an application for a Site Inspection Development Control Committee Members will have clearly identified the issues relevant features on or around the site that are to be viewed.

The Site Inspection will be open only for all Members of the Development Control Committee and Local Members to attend.

No representations will be heard at Site Inspections and no recommendation will be formulated or a vote taken. The purpose is to view relevant features on or around the site.

The inspection will then inform the debate at the following Development Control Committee meeting.

Members of the Development Control Committee should avoid discussion with any other parties during the Site Inspection.

**Proposal Development Control Committee Meeting and
Site Inspection Procedure - details**

DEVELOPMENT CONTROL COMMITTEE

(Please also refer to [Appendix N - Development Control Protocol](#))

(Related amendments have been made to this Protocol)

1. Terms of Reference of the Committee

- (a) All planning, listed building and advertisement applications.
- (b) Revocation, modification and discontinuance orders and planning agreements relating to planning applications.
- (c) Enforcement of planning control; including the issue of Enforcement notices, listed building Enforcement notices, stop notices and abatement notices, and Enforcement and prosecution of contraventions of tree preservation orders, including the requirement for replacement planting.
- (d) Preservation and planting of trees, including the consideration of appeals against tree preservation orders and applications made thereunder.
- (e) All matters arising out of the operation of the Hedgerow Regulations 1997 or any subsequent changes thereto; and,
- (f) All decisions of the Council as Hazardous Substance Authority.

2. Membership of the Committee

19 Members of the Council to be chosen according to political proportionality rules. The Membership of the Committee can be found at [Appendix H - Membership of Cabinet, Committees etc.](#)

3. Procedure at Development Control Committee and Site Inspections

- (1) *This code will be applied in such a way that the right of the Chairman of the Committee to control the debate will be maintained.*
- (2) *“Local Member” means the Member for the District Council ward affected by a planning application which is to be included on an agenda for consideration by the Development Control Committee.*
- (3) *The agenda for the Development Control Committee will be dispatched a minimum of 5 working days before the meeting eg on the Wednesday of the preceding week for a Thursday Committee meeting. It is incumbent on Members of the Committee to ensure that they remain impartial and receptive to all points of debate before reaching a decision to vote on an application.*

3.1 The Chairman, Vice Chairman and other Members, whether or not Members of the Committee, should recognise the effect that their behaviour can have on the public's perception of the Council and should conduct themselves accordingly. Members should represent the interests of the District as a whole.

3.2 Members should remain at meetings of the Committee until the end of the meeting unless they have a compelling reason not to do so.

3.3 Where a planning application has been submitted by the District Council and the appropriate Cabinet Member (responsible Portfolio Holder) is a Member of the Committee, that Member is strongly advised to leave the meeting when the matter is considered and not take part in the discussion or voting. Members should also be informed when an application on Council-owned land is to be considered by the Committee even if the applicant is not the District Council.

3.4 The Development Control Committee operates in a quasi-judicial manner. Accordingly, Members who enter the meeting during discussion of an application, or are not present during the whole of the discussion, should not vote on the application as they will not have heard all the arguments for and against the proposal. Members must make declarations of Interest, Lobbying and Pre-determination before any applications are debated. Copies of lobbying material received should where practicable be forwarded to the Head of Development Services

3.5 Any Local Member who wishes to reserve an item for debate at Development Control Committee is asked to notify the Chairman/Vice Chairman prior to the meeting.

Subject to the Chairman's right to control the debate:

- (a) Any reports deferred for any reason from previous meetings of the Committee will normally be reserved for debate.

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- (b) The Chairman will indicate those applications in respect of which members of the public have asked to speak, which shall automatically be reserved for debate.
- (c) When a Local Member has indicated to the Chairman of the Committee that s/he would wish to address the Committee on a particular application, the application will be reserved by the Chairman for subsequent discussion.
- (d) The Chairman will then read out the details of each remaining planning application from the index to the report, so that Members of the Committee who wish to move an amendment to the Head of Development Service's recommendation or make a comment on any particular application may so indicate, when such applications will automatically be reserved for debate.
- (e) The Chairman will then put all unreserved items to the vote en bloc; and,
- (f) The Chairman will then deal with items before the Committee in the following order:
 - (i) Items deferred from previous meetings of the Committee.
 - (ii) Items with public speakers.
 - (iii) Items reserved by Members of the Committee.
 - (iv) Enforcement cases.
 - (v) Amendments or variations to existing permissions; and,
 - (vi) Objections to Tree Preservation Orders.

3.6 In respect of any item reserved for debate the following procedure will be followed:

- (a) The Chairman will read out the application reference and address. The Officer will introduce the item and outline the key considerations and constraints, summarise the consultation responses and representations and provide the recommendation.
- (b) Address to Committee:- Speakers, who have previously registered to do so are invited to address the Committee in the following order, for a maximum of 3 minutes, (Local Members will have 4 minutes):
 - (i) A member of the public wishing to speak against the application.
 - (ii) The applicant, agent or another member of the public wishing to speak in favour of the application.
 - (iii) The Local Council representative (Town Council or Parish Council)

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- (vi) The Local Member(s) (whether or not a Member of the Committee) wishing to speak for a maximum of 4 minutes speech time. (Normal rules relating to motions and amendments as set out in the Constitution apply).
- (c) Those addressing the Committee including the Local Member(s) will not participate further in respect of that item.
- (d) Members of the Committee will have the opportunity to ask questions of the Officers present.
- (e) Normal discussion of the Planning merits will then take place.
- (f) If a Member wishes to raise a new aspect to the debate on the item as a result of information brought to light during the debate then they will be allowed to do so at the discretion of the Chairman.
- (g) Members are requested not to speak at length on items where they are in full agreement either with the Officers' report or with the views of a Member who has spoken earlier in the discussion.
- (h) The vote will be taken after a motion has been moved and seconded, and after the Chairman, or other mover of a motion, has summed up. The Chairman will advise the meeting on the result of the vote including whether planning permission has been granted, refused etc.
- (i) The Legal Officer will inform the Chairman (unless already requested) of a need for him/her to advise the Committee in respect of any issues that arise from the debate, to ensure that the decision is based upon accurate and relevant law and to advise the Committee with regard to the legal impact of any proposed recommendation or motion.

Decisions Contrary to Officer Recommendation

- 3.7 All Members are encouraged to raise any queries or issues they may have regarding a specific application report with the appropriate Area Team Manager as soon as possible, and in any event before the Chairman's briefing. This will enable Officers to consider the issues raised and discuss them with the Chairman.
- 3.8 Under normal circumstances a Member, having considered the Officers report and who has any factual questions or concerns about an aspect of that report, may contact the Development Control Manager or the Head of Development Services. This will enable such matters to be discussed at the Chairman's briefing, that normally takes place 2 working days before the Committee meeting, and to prepare for any additional advice for the meeting. If a Member's concerns relate to matters which require a visual assessment, the Area Team Manager or the Head of Development Services may discuss the desirability of arranging a Committee Site Inspection with the Chairman. Committee Members are encouraged to attend these Site Inspections whenever possible.
- 3.9 On receipt of concerns from a Committee Member, the Development Control Manager or the Head of Development Services may choose to withdraw the report from the agenda to allow for further discussion or re-assessment.
- 3.10 A Planning Officer if so requested should assist in giving general policy reasons for refusal or conditions for approval to be attached to any permission. In the event of an appeal or a judicial review, it is imperative that the correct grounds for refusal or conditions for approval be cited on the published notice of decision.
- 3.11 In the event of a motion contrary to the Officer's recommendation being formally moved, the Officer(s) present will have the opportunity to address the Committee on the implications of such a decision having regard to the provisions of the Development Plan and all other material considerations, inclusive of implications for any subsequent appeal, before a vote on the motion is taken. Where appropriate the Officer may recommend to the Chairman (whose sole decision it shall be whether to accept that recommendation) that a decision on the application be deferred to enable a further report to be presented to the Committee addressing these issues raised by the debate and the implications.
- 3.12 Where a decision to grant or refuse permission contrary to the Officer recommendation occurs the reasons for such a decision taken by Committee should be clearly minuted. In the event of an appeal where the Committee has made a decision contrary to Officer advice, the appropriate Local Member or a Member of the Committee is expected to be actively involved in the Appeal if by written representation and to attend any Hearing or Public Enquiry when such is held.

Report Deferrals

- 3.13 Any decision to defer a report should be taken BEFORE any other decision to approve or refuse the report. Should the Committee be minded to refuse/approve the report pending deferral to await further information, then, when the report comes back to the Committee, debate must centre around the effect of the additional information on the proposal keeping in mind the opinion to approve or refuse voiced in the first instance. Public speakers may not speak again.
- 3.14 Should a report be deferred for further information without the Committee's opinion on whether it is minded to approve or refuse, then a debate may take place on the whole of the report together with the additional information.
- 3.15 If a report is withdrawn or deferred without the opportunity for a registered public speaker to present their views then the public speaker(s) will be given the opportunity to address the Committee when the item is re-presented for decision.
- 3.16 Members may feel that the application should be viewed on site before a decision is made in which case an amendment/resolution for a Site Inspection is put to the Committee and, if approved, a set procedure is then followed at the Site Inspection.

Site Inspections

- 3.17 A single Site Inspection time will be used for applications deferred by Committee and those identified for a pre-meeting inspection. This inspection will usually take place on the day of the Committee meeting.
- 3.18 Sites for pre-meeting inspections should be identified to the Chairman by Development Control Committee or Local Members at the earliest possible opportunity and in any event a full 3 working days before the Committee meeting, eg by 5pm on a Monday when the Committee meeting is at 7pm on a Thursday.
- 3.19 The Site Inspection will be open for all Development Control Committee and Local Members to attend.
- 3.20 No representations will be heard at Site Inspections and no recommendation will be formulated or a vote taken. The purpose is to view relevant features on or around the site.
- 3.21 The inspection will then inform the debate at the following Development Control Committee meeting.

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- 3.22 Members' Site Inspections will be carried out where applications are to be determined by the Development Control Committee. The Chairman, in consultation with the Head of Service, will normally identify the need for any Site Inspections in advance of the meetings. Members who believe that a Site Inspection is appropriate in a particular case are encouraged to contact the Head of Development Services as soon as possible. This will include selecting appropriate viewpoints. Only exceptionally should an item be deferred for a Site Inspection. All Site Inspections will only be arranged where the proposal to hold a Site Inspection fits at least one of the following criteria.
- 3.23 A Site Inspection may be determined to be necessary if;
- i. Particular site factors are significant in terms of weight attached to them relative to other factors and it would be difficult to assess those factors without a Site Inspection.
 - ii. The characteristics of the site need to be viewed on the ground in order to assess the broader impact of the proposal.
 - iii. Objectors to and/or supporters of a proposal raise matters in respect of site characteristics, the importance of which can only reasonably be established by means of a Site Inspection.
 - iv. The scale of the proposal is such that a Site Inspection is essential to enable Members to be fully familiar with all site-related matters of fact.
 - v. There are very significant policy or precedent issues and where site-specific factors need to be carefully assessed.
- 3.24 When requesting the Chairman of the Development Control Committee to authorise a Site Inspection, the person making such a request (whether the Head of Service or an elected Member) must state under which of the above five criteria the Inspection is requested and must also provide supporting justification.
- 3.25 The purpose of a Site Inspection is to view the site and its surroundings and to relate the application proposals to the site. Officers will explain the submitted drawings. Neither the applicant nor any supporters or any objectors should take part. Where an applicant has to be present to allow access to the site, the visiting Members should stand away from him or her (or if necessary, ask the Applicant to stand away) and should not engage in any discussions.
- 3.26 Members should avoid any discussion of the merits of the case on site, on the journey to/from the site, or anywhere other than the Committee meeting.

Rules for Addresses to the Committee at Meetings of Development Control Committee

- 3.27 Addresses to the Committee will be allowed on planning applications being considered by the Development Control Committee. Public speaking will not be permitted on decisions made under the delegated authority of the Community and Planning Services Director and/or the Head of Development Services or on Enforcement items or Tree Preservation Orders.
- 3.28 Registering to Speak – Those wishing to speak must contact the District Council before 5pm on the day of the meeting at the latest. Only one public speaker against the application and one public speaker supporting the application will be permitted except where the Head of Development Services or Development Control Manager instructs otherwise eg for special meetings of the Development Control Committee.
- 3.29 Main Objector – the first objector (eg the objector whose request is received first by the Council) will be the public speaker and subsequent objectors will be so advised.
- 3.30 Main Supporter – where an applicant or agent indicates a desire to speak they will be given preference over other supporters.
- 3.31 Local Member(s) – will be able to speak for a maximum of 4 minutes.
- 3.32 Local Council – a representative of the Town or Parish Council(s) in which an application site is situated.
- 3.33 Time Limits – Only the main objector and main supporter may speak, each being allowed 3 minutes. A Local Council representative will be able to speak for a maximum of 3 minutes. A Local Member may speak for a maximum of 4 minutes. After the speaker has spoken there will not be a period for questions and neither will there be an opportunity for any speaker to participate or address any of the issues raised in the subsequent debate.
- 3.34 Visual Aids – All speakers are allowed to use visual aids such as plans, drawings, photos etc and these will be displayed on the projector in the meeting room during the speaker's speaking time. No other visual aids may be used. All speakers who wish to have permitted visual aids displayed must provide them to Development Services Team before 5pm at the latest the day before the meeting eg if the meeting is to be held on a Thursday then contact must take place before 5pm on the preceding Wednesday.
- (Written information is not permitted to be used as a "visual aid" by public speakers.)*
- 3.35 Those applications in respect of which members of the public have asked to speak shall automatically be reserved for debate at the Committee.
- 3.36 If a report is withdrawn from the agenda or deferred without the opportunity for a registered public speaker to present their views then the public

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speaker(s) will be given the opportunity to address the Committee when the item is re-presented for decision.

- 3.37 If an application is deferred after addresses to the Committee have taken place, then public speaking will not be permitted when the application is re-presented for decision. If an objector or supporter has not exercised their right to speak in the first instance then their right to speak is waived when the application is re-presented for decision.

Training

- 3.38 Members must not participate in decision making at meetings dealing with planning matters unless they have undertaken suitable training, including any training designated by the Cabinet as mandatory.
- 3.39 Members are encouraged to attend Planning training sessions, which will be provided from time to time, as these are designed to extend their knowledge of planning procedures, policies and practice.

Reasons for Proposed Changes to the Development Control Protocol for Members and Officers, Appendix N of the Constitution

These were approved pursuant to Resolution 12(c) of the 11 June 2009 Cabinet, on 1 July 2009 by the Portfolio Holder for the Built Environment.

The main proposed changes to the document are set out below. The whole document (as changed) is given at Appendix N below

(i) Proposed Change

Delete sections:- (14) Procedure at Development Control Committee; (15) Decisions contrary to officer recommendation; (16) Report Deferrals; (17) Constitution of Site Meetings; (18) Procedure at Site Meetings of the existing Development Control Protocol.

Reason

In the existing Constitution, these sections of the Development Control Protocol repeat in full elements of the main body of the Constitution under Development Control Committee (and related) procedures. These sections are now intended to be changed as set out at Appendix E. It is proposed to simply have these sections set out once in the main body of the Constitution, in future, so they are proposed to be deleted from this Protocol.

(ii) Proposed change

Delete Section (10) Delegation of Decisions of the existing Development Control Protocol.

Reason

This part of the existing Development Control Protocol at present is similar to (but not the same as) the main body of the Constitution. This section of the Constitution is intended to be changed as set out in Appendix C. It is proposed to simply have this section set out once in the main body of the Constitution in future, so Section (10) of the existing Protocol is deleted.

(iii) Proposed change

Clarify and amend the status of the Protocol in Section 1.1 so as to clarify that where there is a conflict between the Protocol and the main body of the Constitution, then the main body will prevail. As the Protocol now largely provides guidance for Members and Officers, aside from a small element, it is now proposed that it has an 'advisory' status.

Reason

To clarify the status of the revised Development Control Protocol.

(iv) Proposed change

Remove reference at Section 12 to local Members playing ‘a more partisan role’ at Development Control Committee.

Reason

Consistent with paragraph 3.1 of Appendix E. Members of Planning Committee should represent the interests of the District as a whole.

(v) Proposed change

In Section 13 on Appeals broaden the scope of the section to include Lawful Development Certificate and Enforcement Notice related appeals.

Reason

To ensure liaison with Members on all relevant appeals.

(vi) Proposed change

Alter the title to read ‘Development Control Protocol for Members and Officers’.

Reason

The reference to procedure at Committee meetings is removed as this is now dealt with elsewhere in the Constitution.

(vii) Proposed Change

Update the keeping of notes in Section 3 Appendix B of the Protocol so as to reflect current practice.

Other

The proposals have been checked for consistency with recently published Local Government Association document “Probity in Planning” (2009).

APPENDIX N : DEVELOPMENT CONTROL PROTOCOL

FOR MEMBERS AND OFFICERS

1. INTRODUCTION

- 1.1 This protocol states and reinforces the principles that underpin effective Member involvement in the development control process. It draws on established local practice as well as guidance from external sources. It will assist both Members and Officers to work together to ensure that the needs of the community are met within the legal and policy framework of planning. Members and Officers have separate but equally important roles to play in this function. The status of this Protocol is advisory unless otherwise shown by use of italics below. If any inconsistencies emerge between contents of any Appendix and the Constitution then the Rules of the Constitution will apply, as set out in Part 1 paragraph 1.1 of the Constitution.
- 1.2 Planning decisions can have a significant impact on our communities and it is fully understood that Members need to play an active role in development control matters, both as representatives, decision makers and as community leaders.
- 1.3 In practice most planning decisions are delegated to the Head of Development Services for the following reasons:
- To minimise delay to the application;
 - Because they are not controversial and can easily be determined within the framework of planning policies;
 - Because, in the case of non controversial application, Officers are authorised to deal with them; and
 - For the maintenance of the efficiency of the service.
- 1.4 Those planning applications not dealt with under delegated authority are considered and determined by the Development Control Committee.
- 1.5 Members should represent the interests of the whole community in planning matters. When determining planning applications they must take into account planning considerations only. These can include views expressed on relevant planning matters. However, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons and where these are considered by the Development Control Committee it is the Members that ultimately make the final decision on planning applications, after taking due account of the advice given by professional officers.
- 1.6 Members will be guided by the Council's current Code of Conduct with particular reference to declarations of Interest.

2. OBJECTIVES

2.1 This Protocol has the following main objectives:

- (a) To guide Members and Officers of the Council in dealing with planning related matters;
- (b) To ensure that the Council operates an open and fair system;
- (c) To establish clear procedures; and
- (d) To promote better communication between Officers and Members.

APPENDIX A

MEMBER INVOLVEMENT IN THE LIFE CYCLE OF A PLANNING APPLICATION IS SUMMARISED IN THE TABLE BELOW:

Stage	Opportunity for Member Involvement	Principal Means of Communication
Pre-application	<ul style="list-style-type: none"> • Members to advise Officers of local information • Officers to advise local Members of cases of potential concern —involving pre-application discussions • Informal consultation on issues and sites known or likely to be controversial 	<ul style="list-style-type: none"> • Telephone/e-mail • Telephone/e-mail/meeting • Telephone/e-mail/meeting
Publicity Application for	<ul style="list-style-type: none"> • Weekly List • Contact with affected third parties • Contact statutory consultees • Public Access Module 	<ul style="list-style-type: none"> • Post/e-mail • Telephone/e-mail/meeting • Telephone/e-mail/meeting • Website
Assessment	<ul style="list-style-type: none"> • Dialogue with case officer • Contact with affected third parties • Possible reference to Development Control Committee 	<ul style="list-style-type: none"> • Telephone/e-mail/meeting • Telephone/e-mail/meeting • Telephone/e-mail/meeting
Negotiation	<ul style="list-style-type: none"> • Updates from case officer 	<ul style="list-style-type: none"> • Telephone/e-mail/meeting
(Significant) Amendment following negotiation	<ul style="list-style-type: none"> • Weekly list • Contact with affected third parties/statutory consultees • Dialogue with case officer 	<ul style="list-style-type: none"> • Post/e-mail • Post • Telephone/e-mail/meeting
Recommendation	<ul style="list-style-type: none"> • Dialogue with case officer • Early report on request • Requesting reasons for refusal/conditions for approval • Referral to Development Control Committee 	<ul style="list-style-type: none"> • Telephone/e-mail/meeting • Telephone/e-mail • Meeting • Meeting
Decision	<ul style="list-style-type: none"> • Attending Development Control Committee • Attending Committee site inspections 	<ul style="list-style-type: none"> • Meeting • Meeting

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Appeal

- Dialogue with appeal officer
- Attending Hearing or Public Inquiry
- Telephone/e-mail/meeting
- Meeting

Monitoring

- Advising officers of local information
- Telephone/e-mail/writing

3. PRE-APPLICATION DISCUSSIONS

- 3.1 Members can influence future development through being involved at the pre-application stage. Planning Officers must consider the potential for Local Member input and use common sense in contacting all interested Members on any development proposals that might reasonably be considered controversial or sensitive.
- 3.2 Full discussions about planning applications are strongly encouraged between Local Members and Case Officers on a case-specific basis. However, recognising that Officers' and Members' time is very precious, an e-mail or phone call alerting local Members to any possible controversial pre-planning application discussions would be adequate.
- 3.3 Officers would be expected, upon receipt of an enquiry from a Local Member in relation to a specific site to discuss details with that Member of any contact with a potential developer albeit that these discussions were at a pre-application stage.
- 3.4 Potential applicants should always be advised that the final decision on any application ultimately rests with Members through the Development Control Committee. Officers and Members should make clear that the advice given to potential applicants does not constitute a formal decision. Applicants seeking advice should be made aware of the subjectivity of the advice given and, consequently, there is the need for a consistent approach by Officers in their dealings with potential applicants (enquirers).
- 3.5 It is important that Case Officers recognise that what might be a sensitive case or a 'case of interest' could vary from ward to ward. It is therefore essential that planning officers know their area well and consult with Local Member(s) regularly.
- 3.6 In dealing with pre-application discussions it should be recognised that as no application has yet been made, the discussion is informal and not governed by the statutory provisions of the Town and Country Planning Act. In order to ensure that an open discussion ensues, the enquirer (not applicant at this stage) must be given the opportunity to identify any matters that give rise to commercial confidentiality. It is recommended that the ideal model set of procedures be used where practicable as per Appendix B:-

Formal Pre-application Meetings

- (a) In the case of formally arranged pre-application meetings (either at the office or on site) it is important that an accurate record of the discussion is made and this should set out the following:
 - (i) the context of the discussion;
 - (ii) the nature/extent of the draft proposals;
 - (iii) the relevant planning policies, considerations, and issues that apply;
 - (iv) the views and comments made by those present at the meeting as far as relevant to the matters under discussion.
- (b) At the end of the meeting the Planning Officer present will ensure that the status of the discussion is fully understood by the potential applicant/agent. The draft meeting note should be made available to all parties at the meeting so that they may comment and/or amend as necessary as an agreed record of the discussions.
- (c) The minutes/note of the meeting will be filed with a site reference (to avoid confusion by any changes to the site dimensions name or ownership). The meeting note to be recorded in Uniform system against the site record.

4. APPLICATIONS

- 4.1 Since the great majority of applications are for household extensions and other minor developments it is expected that most queries from local Members can be dealt with by telephone or by e-mail. For more complex or controversial applications, face-to-face briefing between Members and Officers may be appropriate.
- 4.2 To promote good communications, Officer/Member discussions will normally be held with the responsible case officers rather than their seniors. The latter should however become involved when issues arise that cannot be resolved by Members and case officers.
- 4.3 Member/Officer discussion should take place at the earliest opportunity, with openness and respect for each other's roles, responsibilities and opinions, recognising that officers have a professional duty to give impartial planning advice.
- 4.4 Planning officers, applicants and agents should ensure that site plans are correct and are up to date and should include recent development/permissions and any affected buildings in the vicinity together with the latest drawing numbers.

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- 4.5 Every application site must be identified by an Ordnance Survey or GIS reference.
- 4.6 As with pre application advice, file notes of every contact with applicants/potential applicant should be written and placed on file.

5 PUBLICITY

- 5.1 The 'Weekly Planning List' should be accurate in identifying all valid applications received, showing the correct wards and the responsible case officer. There is an obligation on Members to follow up concerns within their ward arising from the 'Weekly List' with Planning Officers.
- 5.2 Public Access is an important source of information for Members, the public and applicants/agents and therefore it should be scrupulously maintained.
- 5.3 There is a need for consistency in the clear display of 'orange' site notices, as set out in the adopted relevant DC Practice Note. An accurate record that a site notice is required should be identified within the Uniform system together with a record of the date when the notice was posted. Officers to check notices are correctly displayed when undertaking their site visits.
- 5.4 Neighbour notification should be carried out in accordance with the adopted relevant DC Practice Note. All neighbours who are likely to be directly affected by the application should be identified to receive a neighbour notification letter. A record of all those notified will be maintained within the Uniform system.
- 5.5 Site visits by Officers are essential to ensure that all parties who ought to be notified of an application have been correctly identified and as such will receive a neighbour notification letter. Any additional neighbour notification will be carried out following the site visit.

6 CONSULTATION

- 6.1 There is a need to ensure that all affected parties are notified of a planning application. In accordance with recognised 'best practice' the Council's consultation procedures exceed the statutory minimum required. A record of all parties consulted will be maintained on the Uniform system.
- 6.2 A proper, and reasonable timescale should be given for comments and a copy of the application documents should be provided to statutory consultees as appropriate.
- 6.3 It is recommended the letters to neighbours should be issued at the same time as letters to parish/town councils with the same deadline for responses.

7. COMMUNICATION

- 7.1 Members and Officers need to make sure that there is proper and adequate communication between them and if not available on the phone, e-mail should be used.

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- 7.2 Communication problems can be reduced still further if Members ensure that they inform the case/area officer of their holiday (or any other absence) dates, and indicate a time or a regular day when they can be contacted.
- 7.3 If an Officer routinely works at home on a certain day each week, then this information should be made available to Members. Members who wish to contact an Officer who is on site, or working at home, will contact the relevant Development Control Team so that a message can be passed to the relevant Officer to contact the Member in order to deal with their enquiry or concerns.
- 7.4 Officers and Members need to make sure that queries, calls and e-mails are responded to as quickly as possible.

8. ASSESSMENT

- 8.1 Local Members have a duty to check the Weekly Planning List to identify potentially contentious applications and enter into a dialogue with the case officer if they wish to be advised / consulted on the progress of the application. Any contact by a Local Member will be recorded by the Case Officer.
- 8.2 If a Member makes clear his/her interest in an application the Case Officer should offer a briefing with that Member with a view to clarifying and/or resolving any concerns in relation to that application.
- 8.3 If a Member is contacted by a third party in relation to an application care must be taken to avoid any personal commitment either for or against an application.

9. AMENDMENT OF APPLICATIONS

- 9.1 If a Member has expressed an interest in an application he/she should be informed when an amendment to that application is sent out for further consultation. Members should not unreasonably/unnecessarily hold up the planning process over minor amendments to an application. Members should always react and respond quickly.
- 9.2 All amendments should be notified to Members who have previously expressed an interest before a decision is made.

10. REPORTS

- 10.1 Draft reports to Development Control Committee should be produced in accordance with existing internal procedures.
- 10.2 The following principles should be adhered to in the production of reports to the Development Control Committee:
- reports should be accurate and balanced. The report should include, amongst other things, the substance of objections and the appropriate importance must be attached to the views of those consulted;

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- there should be a clear exposition of the Development Plan and other policies, the site, proposal, related history and any other material considerations;
- the reports should contain technical appraisals which clearly justify the recommendation;
- there should be a written recommendation either for approval or refusal. However, where the recommendation is finely balanced, this should be clearly reflected in the report.
- all relevant documents, including the Regional Spatial Strategy, Local Development Plan or Framework and Planning Policy Statements/Guidance should be cited with an explanation of the weight given to each policy. Where a recommendation seems to be contrary to policy, the material considerations justifying the departure should be clearly stated;

11. APPLICATION FILES

- 11.1 *Planning application files for applications to be considered by Development Control Committee will be made available for Members from 6 p.m. on the evening of the meeting.*
- 11.2 Members should be aware that they may inspect application files at the District Council offices at Argyle Road during normal office hours by prior arrangement to ensure the availability of the files for the Members' visit.

12. IMPLICATIONS FOR DEVELOPMENT CONTROL COMMITTEE MEMBERS AND LOCAL MEMBERS

- 12.1 *Development Control Committee operates akin to a quasi-judicial manner and all sitting Committee members must avoid reaching a judgement before all relevant evidence is presented to the Committee. They must view applications dispassionately and have regard to the provisions of the Development Plan and all other material planning considerations.*
- 12.2 *All sitting Committee members must ensure that they never give the impression of closing their minds to information relevant to an application, however much pressure they are placed under to take a particular line.*
- 12.3 Members must ensure that they keep themselves informed of issues within their wards i.e. viewing Weekly Plan list etc. This would assist Members in identifying potentially contentious applications and seeking views of their town/parish council.
- 12.4 There is an obligation on Members, where they have requested that an application be referred to the Development Control Committee, to attend the meeting at which the application is considered. Should the Member, due to a prior commitment be unable to attend, they should provide a written personal report to be read to the Committee and/or brief another Member who does not serve on Development Control Committee to present their case to the

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Committee. Officers should not be expected to prepare a full committee report if the Member or their representative does not intend to be present to reserve the application for debate and a Member's written report is not provided - an exception is when the report relates to application by a Member/Officer.

- 12.5 Lobbying is a normal and perfectly proper part of the planning process. However, members of the public who feel they would be adversely affected by a planning application will often seek to influence it by approaching their elected Member. Members should exercise care and common sense. The impartiality and integrity of the Council should not be called into question.
- 12.6 When being lobbied, Members will need to take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been able to consider all the facts, considerations and arguments. If Members do express an opinion they should make it clear that individually they will only be in a position to vote on a final decision after having heard all the relevant evidence and considerations at the Development Control Committee.
- 12.7 Individually or in Committee, Members are entitled to hold views and take decisions contrary to Officer advice. However such a decision should be based on valid planning considerations, the details of which should be given by the Member at the meeting, and the reason for the decision should be clearly documented in the minutes of the meeting. It therefore follows that Members of the Committee when moving for a decision contrary to recommendation should be ready to advance adequate reasons before a vote is taken.

13. APPEALS

- 13.1 In the event of an appeal being lodged against:- a refusal of, or failure to determine a planning application; or application for a Lawful Development Certificate; or the issuing by the Council of an enforcement notice; Local Member(s) will be kept informed of the progress of the appeal,. Local Members wishing raise comments or questions on any aspect of the appeal should contact the Head of Development Services or Development Control Manager to discuss the specific case.
- 13.2 The local Member(s) are encouraged to have dialogue with Officer on the general grounds for an appeal and the Council's defence of that appeal.
- 13.3 Members are expected to attend an appeal if they have been instrumental in the refusal of the application that led to the appeal.

GLOSSARY:

Local Members	The Member(s) representing a ward plus any other Member who has a direct interest, such as a Member representing an adjacent ward.
Enquirers	Potential applicants
Briefing	When an Officer contacts a Member by phone, e-mail or with a meeting to update them on planning issues.