

## Chapter 5 – Committees

### Part 1 – Article 8 – Committees and Sub-Committees of Council

#### 1. Committees

- 1.1 The Council may appoint such Committees as it determines for the effective discharge of its functions. It has determined to appoint the following Committees, each comprising the following number of Councillors:

|     | Name of Committee                   | Number of Members  | Quorum               |
|-----|-------------------------------------|--|----------------------|
| (a) | Planning                            | Nine Councillors, plus two non-voting Members appointed annually by the Council, one to represent the interests of trade and commerce in Thurrock and one to represent the interests of heritage, countryside and conservation | Three voting Members |
| (b) | Licensing Committee                 | Fifteen Councillors  | Three                |
| (c) | General Services Committee          | Seven Councillors  | Three                |
| (d) | Standards Committee (see Chapter 7) | Six Councillors, plus Six co-opted independent voting Members  | Three                |
| (e) | Audit Committee                     | Six Councillors, plus three co-opted non-voting Members appointed by the elected Members of the Committee.   | Three voting Members |
| (f) | Corporate Parenting Committee       | Eight Councillors  | Three                |

#### 2. Functions

- 2.1 The terms of reference of each Committee are set out in Parts 3, 4 and 5 of this Chapter, and for Standards Committee in Part 2 of Chapter 7 of this Constitution, and each Committee has delegated authority to discharge those functions within the Budget and Policy Framework of the authority.

#### 3. Sub-Committees

- 3.1 Each Committee may appoint such Sub-Committees as it considers necessary for the effective discharge of its functions and may arrange for the discharge of any of its functions by such Sub-Committee.

#### 4. Appointment

- 4.1 The Council shall appoint the Members of each Committee at the Annual Meeting of Council, or at the next convenient meeting thereafter, or as and when a vacancy has arisen. Each Committee shall appoint the Members of each of its Sub-Committees at the first meeting of the Committee after the Annual Meeting of Council, or as and when a vacancy has arisen.

- 4.2 Each Member of a Committee or Sub-Committee shall remain in office until:
- (a) he/she resigns as a Member of the Committee or Sub-Committee
  - (b) he/she ceases to be a Councillor or whilst suspended; or
  - (c) the Council appoints another person to act in place of the Member.
- 4.3 All appointments of Councillors to Committees or Sub-Committees, other than to the Standards Committee, Standards Sub-Committees and Licensing Sub-Committee, shall be made in accordance with the requirements of Proportionality.
- 4.4 The Council may appoint persons who are not members of the authority to any Committee as co-opted Members. Any such appointment(s) shall be undertaken in accordance with the Council Procedure Rules at Chapter 2, Part 2, Rule 26.6 of this Constitution.
- 5. Proceedings**
- 5.1 Proceedings of these Committees and Sub-Committees shall take place in accordance with the Committee Procedure Rules in Part 2 of this chapter.

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## Part 2 – Committee Procedure Rules

### 1. Time and Place of Meeting

- 1.1 The time and place of any meeting will be determined by the Monitoring Officer and notified in the summons.

### 2. Meetings

- 2.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The Agenda for a meeting will give the date, time and place of each meeting, specify the business to be transacted, and will be accompanied by such reports as are available.
- 2.2 The Monitoring Officer may cancel or postpone an ordinary meeting prior to the issue of an Agenda for the meeting where, after consultation with the Chair of the relevant Committee (or in his/her absence, the Vice Chair), he/she considers that there is insufficient business to transact or where an event occurs which he/she considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the Monitoring Officer, after consultation with the Chair of the relevant Committee (or in his/her absence, the Vice Chair), may postpone an ordinary meeting and hold the meeting on a date to be agreed with the Chair of the relevant Committee (or in his/her absence, the Vice Chair).
- 2.3 The Monitoring Officer may call an extraordinary meeting of a Committee, after giving consideration to a request by either:
- (a) The Chair of the relevant Committee, or in the Chair's absence, the Vice-Chair
  - (b) A quorum of the Members of a Committee

### 3. Chair of Meeting

- 3.1 The Chair and Vice Chair of each Committee shall be appointed by the Council at its Annual Meeting.
- 3.2 Where both the Chair and Vice Chair are not present or able to act in respect of a particular item of business at a meeting, it is necessary to elect a person to preside over the meeting, or particular item of business, in their absence.
- 3.3 In any such case, the Democratic Services Officer in attendance at the meeting shall invite nominations from those members of the Committee for a person to preside at the meeting or in respect of the particular item, as necessary.
- 3.4 If there is more than one nomination, any vote that may be required can be determined by a simple majority of votes from those members of the Committee.
- 3.5 If there are more than two people nominated and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. If there is still an equality of votes, the matter shall be determined by the drawing of lots.
- 3.6 The person presiding at the meeting may exercise any power or duty of the Chair.

### 4. Quorum

- 4.1 The quorum of a meeting will be one quarter of the whole number of Members, provided that in no case shall the quorum of a Committee be less than three Members. During the meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn for 15 minutes. If after that time the Chair counts the number of

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Members present and declares that there is still no quorum the meeting will adjourn. The remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.

## **5. Voting**

### **Majority**

- 5.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present at the time the question was put.

### **Chair's casting vote**

- 5.2 If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

### **Show of hands**

- 5.3 Unless a ballot or recorded vote is demanded under Rules 5.4 or 5.5 below, the Chair will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

### **Ballots**

- 5.4 The votes will take place by ballot if a majority of the Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

### **Recorded vote**

- 5.5 If no fewer than one fifth of the Committee's Membership demand it at the meeting, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

### **Recording of votes at the Planning Committee**

- 5.6 In cases where the Planning Committee votes on an application or enforcement matter to be determined by the Council, the Clerk to the Planning Committee shall record in writing and shall enter into the minutes the names of those Members voting for, against or abstaining from any such vote.

### **Right to require individual vote to be recorded**

- 5.7 Where any Member requests it immediately after a vote is taken, his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

### **Voting on appointments**

- 5.8 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## **6. Minutes**

### **Signing the minutes**

- 6.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as an accurate record. The only part of the minutes that can be discussed is their accuracy.

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**Form of minutes**

- 6.2 Minutes will contain all motions and amendments in the exact form and order as put to the meeting.

**7. Exclusion of Public**

- 7.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules or the Council Procedure and Rules.

**8. Member's Conduct****Chair Standing**

- 8.1 When the Chair stands during a debate, any Member speaking at the time must stop. The meeting must be silent.

**Member not to be heard further**

- 8.2 If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

**Member to leave the meeting**

- 8.3 If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**9. Disturbance****General disturbance**

- 9.1 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

**Removal of member of the public**

- 9.2 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair may order their removal from the meeting room.

**Clearance of part of a meeting room**

- 9.3 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared, and may adjourn the meeting for 15 minutes or other suitable period.

**10. Motion affecting persons employed by the Council**

- 10.1 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) or (4) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Committee has decided whether or not the power to exclude the public under section 100 (A) (2) or (4) of the Local Government Act 1972 shall be exercised.

**11. Petitions**

- 11.1 Committees may be presented with petitions in accordance with the Council's Petition Scheme.

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**12. Rules of Debate**

- 12.1 The Rules of debate that apply to Council meetings set out in Chapter 2, Part 2, may be applied to meetings of Committees to the extent that the Chair considers appropriate.

**13. Participation of Appointed Members**

- 13.1 A Committee may make it a requirement of any Member participating as a Member of the Committee or of a Sub-Committee that the Member has undertaken appropriate training in the roles and responsibilities of Members in discharging the functions of the Committee or Sub-Committee, and may arrange for the provision of such training to all, or all new, Members of the Committee or Sub-Committee.
- 13.2 Those Members appointed to the Corporate Parenting Committee are required to undertake a CRB check prior to taking up their role.

**14. Attendance of other Members of the Council**

- 14.1 A Member who is not a Member of the particular Committee or Sub-Committee may attend all meetings of any Committee or Sub-Committee, save that he/she shall withdraw from any part of a meeting from which the Committee or Sub-Committee excludes press and public unless specifically invited to remain by the Chair because of the special contribution which he/she can bring to the issue under consideration.

**15. Recording of Meetings**

- 15.1 Meetings of Council, the Planning Committee, the General Services Committee and Licensing Sub-Committees are routinely recorded and, on occasion, a recording may be made of any other Committee meeting.
- 15.2 Where a meeting is to be recorded, the Chair will make an announcement to this effect prior to the start of the meeting.
- 15.3 Recordings of meetings will be kept for a period not exceeding 12 months.

**16. Duration of Meeting****Termination of Meetings**

- 16.1 If the business of the meeting has not been concluded by two and a half hours after its start, the Chair must interrupt the meeting. The Chair will then and without debate take a vote as to whether to continue with the meeting. Unless a majority of Members vote to continue with the meeting, the meeting shall be adjourned and any remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next meeting.

## Part 3 – Planning Committee

### Part 3 (a) – Terms of Reference of the Planning Committee

Council has determined that the Planning Committee shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

| <b>PLANNING COMMITTEE</b>   |  |
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| <b>Appointed by:</b><br>The Council under section 102 of the Local Government Act 1972  | <b>Number of Elected Members:</b><br>Nine  |
| <b>Chair and Vice-Chair appointed by:</b><br>The Council  | <b>Political proportionality:</b><br>The elected Members shall be appointed according to Political Proportionality.  |
| <b>Quorum:</b><br>Three   | <b>Co-opted Members:</b><br>Two non-voting co-opted Members appointed each year by the Council: <ol style="list-style-type: none"> <li>1. one to represent the interests of trade and commerce in Thurrock; and</li> <li>2. one to represent the interests of heritage and/or the countryside and conservation.</li> </ol> |
| <b>Code:</b> <ol style="list-style-type: none"> <li>1. The Planning Committee Procedures in Part 3(b) of this Chapter.</li> <li>2. Code of Practice for Members and Officers – Planning Applications, in Part 3(d) of this Chapter.</li> </ol>  |  |
| <b>Terms of Reference:</b> <ol style="list-style-type: none"> <li>1. To determine planning and similar or related applications for the use or development of land or applications for advertisement control consent, to take enforcement or other action, or generally to control or comment upon the use and development of land, including untidy sites. The Applications to be considered by the Planning Committee are set out at Part 3(b), Rule 2.1.</li> <li>2. To determine applications for conservation area consent, or to take enforcement or other action in relation to buildings in conservation areas;</li> <li>3. To exercise the Council's powers in relation to tree preservation orders and hedgerow protection;</li> <li>4. To exercise the Council's powers in relation to the creation, diversion and stopping-up of highways, including footpaths and bridleways;</li> <li>5. To exercise the Council's powers in relation to the protection and enjoyment of the highway and to keep the definitive map and statement under review;</li> <li>6. To keep under review and make minor alterations as necessary to the Committee's procedures.</li> </ol> |  |

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| <p>Without prejudice to the generality of the foregoing, this delegation includes the functions as set out in column (1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 1, as amended, and all legislation appertaining to planning and any amendments thereto.</p> |
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## Part 3 (b) – Planning Committee Procedures

### 1. Interpretation

- 1.1 Subject to paragraphs 1.2 and 1.3 below, these procedures shall be interpreted in accordance with the Council's Constitution.
- 1.2 "Chair" includes, in addition to the Vice-Chair, any Member of the Planning Committee elected to Chair a particular meeting.
- 1.3 "Application" means an application for planning permission, an application under Part 24, Schedule 2 of the General Permitted Development Order 1995 (as amended), the demolition of a building within a conservation area, advertisement control consent, works to trees, a certificate in relation to lawful uses or otherwise within the terms of reference of the Committee.
- 1.4 "Planning Officer" means the Head of Service for the time being charged with processing planning, and similar or related applications and advising the Planning Committee on them, or someone authorised by him/her to act on his/her behalf.
- 1.5 "Senior Officer" means the Chief Executive / Head of Paid Service, Directors and Heads of Service employed by Thurrock Council.
- 1.6 Any reference in these procedures to an Application or matter being decided or determined by a body or person includes a reference to commenting upon or responding to a consultation in relation to any Application.

### 2. Applications to be considered by the Planning Committee

- 2.1 The following Applications will be considered by the Planning Committee:
  - (a) Applications that in the opinion of the Planning Officer have significant policy or strategic implications, including departures from the approved development plan which would require referral to the Secretary of State;
  - (b) All Applications by or on behalf of the Authority in accordance with the provisions of the Town and Country Planning General Regulations;
  - (c) All Applications by or on behalf of Members, Senior Officers or Officers employed in the Authority's Planning and Transportation Directorate (including close relatives of such Members or Officers).
  - (d) Any Application where a request is made in writing that it should be considered by the Planning Committee by:
    - (i) A Ward Member and one other Member of the Council with the agreement of the Chair, where the Application is for development within their ward;
    - (ii) Any five Members of the Council.Any such request must clearly and precisely specify the planning grounds on which the request is being made.
  - (e) If a Member of the Planning Committee who is party to a request made under 2.1(d) for an application to be considered by the Planning Committee subsequently declares a prejudicial interest in that application, the item will be withdrawn from the Agenda and dealt with by Officers under delegated authority.

### **3. Planning applications list**

#### **The weekly list**

- 3.1 The Planning Officer shall prepare weekly a list of Applications ("Applications List") that will indicate which are to be considered by the Planning Committee and which are likely to be determined by Officers under delegated powers. Members will be notified if and when a delegated decision is considered by the Planning Committee under Rule 2.1 (d).
- 3.2 The Planning Applications list will be circulated to all Members of the Council and will be available on the Authority's intranet and website ([www.thurrock.gov.uk/planning/](http://www.thurrock.gov.uk/planning/)).

#### **Time limits**

- 3.3 In accordance with Rule 2.1(a) above Members must notify the Planning Officer in writing within three weeks of the issue of the weekly Planning Applications List under Rule 3.1 above whether they require any Application to be reported to the Planning Committee. If in any doubt, or more information or clarification on any matter is required, Members are advised to contact the Planning Officer. On receipt of a request from the required number of Members (including the agreement of the Chair where required) the Application will be reported to the Committee.

### **4. Enforcement functions**

- 4.1 The decision on whether or not to pursue or vary enforcement action against any breach of planning control is delegated both to the Planning Officer and to the Head of Legal Services.
- 4.2 At least quarterly a list updating on the progress cases where enforcement and other formal action is being taken will be prepared and circulated to all Members of the Council.
- 4.3 Any two Members with the agreement of the Chair, or any five Members, may require a report to Committee on any enforcement matter. Such requests should be made in writing to the Planning Officer at the earliest opportunity, following a discussion with that Officer. Any such request must clearly and precisely specify the planning grounds on which the request is being made.

### **5. The public addressing the Committee**

- 5.1 The Planning Committee may allow objectors and applicants/planning agents, and also owners of premises subject to enforcement action, or their agents, to address the Committee.
- 5.2 The Rules for the conduct of the public in addressing the Committee are set out at Part 3(c) of this Chapter.

### **6. How decisions are taken at meetings**

- 6.1 The normal procedure is:
- (a) The Chair takes the item in the order listed on the agenda
  - (b) The Planning Officer introduces the item, clarifying any issues as necessary
  - (c) Speaker in opposition (if any) addresses the Committee in accordance with Part 3(c) - 3 minutes
  - (d) Ward Councillor (if any) addresses the Committee in accordance with Part 3(c) - 3 minutes
  - (e) The Chair may at his/her absolute discretion invite any Ward Member not falling within Rule 6.1(d) above to briefly address the Committee.

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- (f) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct. The Member will withdraw immediately after speaking, unless he has obtained a dispensation from the Standards Committee.
  - (g) Applicant or agent/representative addresses the Committee in support (if any) in accordance with Part 3(c) - 3 minutes
  - (h) The Committee may seek clarification of those who have spoken on any issues raised in their address.
  - (i) The Planning Officer shall address any issues resulting from the procedure set out in Rule 6.1(a) to (h) above and the Committee may put questions to the Planning Officer.
  - (j) The Committee then debates the matter and does not hear any additional representations or comments from the public or non-Committee Members, but may seek further clarification from Officers.
- 6.2 When the Chair considers that there has been sufficient debate, he/she will call for a decision. A vote may be taken on the recommendation in the report, once proposed and seconded, or on a motion moved by a Member of the Committee, altering the report's recommendation.
- 6.3 A motion moved by a Member of the Committee that alters the wording of the recommendation of the report must be seconded and be supported by planning reasons for the alteration and those reasons will be set out in the Minutes of the Meeting.
- 6.4 If the Chair calls for the application to be determined a vote shall be taken on the recommendation of the Planning Officers. If this fails, an alternative motion may be made by any Member of the Committee.
- 6.5 If an alternative motion is moved by a Member of the Committee it must be supported by clear planning reasons and seconded prior to being put to the vote. Those reasons will be set out in the minutes of the meeting.
- 6.6 The Planning Officer and/or the legal adviser shall be afforded the opportunity to advise the Committee during the course of debate or any other stage of the meeting.
- 7. Decisions contrary to Officers recommendations and/or the Development Plan**
- 7.1 The law requires that where regard is to be had to the Development Plan, decisions should be taken in accordance with it, unless material considerations indicate otherwise (section 38(6), Planning and Compensation Act 2004).
- 7.2 If the Planning Committee seeks to make a decision contrary to the Planning Officer's recommendation (whether for approval or refusal), the following will apply:
- (a) The mover of the motion should clearly specify or write down the motion including the reasons for departing from the Officer recommendation. Both the reasons and the motion should be put to the Committee orally and in public even if the reasons are tentative. Any such motion must be seconded;
  - (b) The Planning Officer should always be given the opportunity to explain the implications of what has been proposed to the Planning Committee in public before any vote is taken;
  - (c) If the Planning Committee's arguments against the Planning Officer's recommendations are very clear and substantiated and no longer tentative on planning grounds the application shall be determined at the meeting. If not, the application should be deferred to enable the Planning Officer to draft a further report for a subsequent meeting of the Committee, outlining the implications of

making a decision contrary to the Planning Officer's recommendation. If appropriate, the legal advisor's opinion should be sought as to whether a deferral is necessary. The Committee's reasons must be formally recorded in the minutes.

- 7.3 When a planning application has been referred to a future meeting following a resolution of 'minded to approve' or 'minded to refuse', contrary to the Planning Officer's recommendation, then at a subsequent Committee meeting, the Planning Officer will prepare a further written report that will include the reasons formulated by the Committee for being minded to grant or refuse permission.
- 7.4 If the Committee is still of the same view, then it will again consider its reasons for granting or refusing permission, and a summary of the planning reasons for that decision will be given, which reasons must then be formally recorded in the minutes of the meeting. It is important that the justification for departing from Officer's recommendations that is recorded in the minutes are those reasons given at Committee and in public and that the justification is not subject to later elaboration in the minutes which is more extensive than the oral presentation.
- 7.5 The Courts have expressed the view that reasons should be clear and convincing. Members must satisfy themselves that where they reach a decision contrary to an Officer's recommendation their reasons are substantiated by evidence and that they are able to demonstrate reasonable planning grounds for taking a decision contrary to Officer's advice. Where a decision is taken to refuse an application but the Officer's recommendation is to approve, the Committee must consider whether any conditions could have allowed the development to have proceeded. In addition, Members should exercise caution in not giving undue weight to any particular consideration.
- 7.6 In instances where the Planning Committee grants approval of an application against Officer recommendation, the Planning Officer shall draft conditions to be attached to the that approval which shall be agreed in writing with the Chair of the Planning Committee unless the Committee grants delegated authority to the Planning Officer.
- 7.7 In instances where the Committee refuse an application against the recommendation of the Planning Officer, the detailed reasons for refusal (which shall reflect the minuted reasons provided by the Committee) shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grant delegated authority to the Planning Officer.

## **8. Site visits by the Planning Committee**

- 8.1 Prior to any meeting of the Planning Committee, the Planning Officer may be of the opinion that a site visit should be arranged to a site that is the subject of an application to be considered by the Committee to enable Members to become familiar with the issues to be considered. Any site visit arranged to take place prior to a meeting of the Planning Committee shall be arranged in accordance with rules 8.6 to 8.10 below.
- 8.2 Occasionally the Committee may defer taking a decision on an item in order to make a site visit. Reasons for a site visit being made shall be recorded in the minutes.
- 8.3 The Committee Members who propose and second a site visit should ensure that they attend the visit, or arrange for a substituted Member to attend.
- 8.4 All Members who attend should ensure that any information gained from the site visit is reported back to the planning Committee so that all Members have the same information.
- 8.5 Site visits are to be held solely for the purpose of informing the Planning Committee Members by way of visual inspection about the nature of the application. No attempt should be made to make representations or lobby the Committee or individual Members during a site visit.
- 8.6 The Clerk to the Planning Committee will contact the applicant and/or their planning agent to arrange access to the site or premises. Invitations will be sent to Members of the Committee and Ward Councillors. Applicants and/or their planning agents and any objectors (or a

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- representative or sample of such objectors) shall be informed of the visit. The notification shall contain a brief summary of the procedure to be adopted at the site visit.
- 8.7 The Planning Committee, along with the Clerk to the Planning Committee and the Planning Officer, shall carry out the inspection in one group. Planning Committee Members and applicants, agents, objectors and Ward Members present shall not engage in individual discussions.
- 8.8 The Planning Officer and any other Officer present shall draw to the Committee's attention any relevant features of the site.
- 8.9 Members will not take any decision during the site visit but may, through the Planning Officer, ask questions or seek clarification, particularly about the characteristics of the site. Members should refrain from making comments on the merits of the application during the course of the inspection.
- 8.10 The Clerk to the Planning Committee will record the date of the visit, Members present (including non-Members of the Committee) and any other relevant information. A record of the Members present will be included in the minutes of that Meeting.

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## Part 3 (c) – Public Participation at a Meeting of the Planning Committee

### 1. Introduction

- 1.1 Planning applications are usually determined either by Officers acting under delegated authority or by the Planning Committee.
- 1.2 The Council wants to provide the opportunity for the public and for applicants (or their agents) to speak at the meetings of the Planning Committee before Members of the Committee take their decision. Anyone who has written to the Council making representations on a planning application will be contacted by Development Management upon publication of the relevant agenda and will be advised of the relevant process relating to public speaking (see paragraphs 2.4 and 3.1-3.3 below).
- 1.3 Upon receipt of a request to speak at a meeting of the Planning Committee, Democratic Services will organise all such public speaking.

### 2. Who can speak at a meeting of the Planning Committee?

- 2.1 Only the following may address the Planning Committee:
    - (a) In the case of a planning application:
      - (i) An objector or their representative;
      - (ii) A Ward Councillor;
      - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct.
      - (iv) An applicant or his/her agent or representative.
    - (b) In the case of an enforcement matter:
      - (i) An objector or their representative;
      - (ii) A Ward Councillor;
      - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct;
      - (iv) The owner or occupier of premises under enforcement action or his/her agent or representative.
  - 2.2 Only one person, in addition to a Ward Councillor, will be invited to speak in support of, or in opposition to, any application or enforcement matter appearing on the Agenda for a meeting of the Planning Committee.
  - 2.3 Subject to paragraph 2.2, if a person wishes to speak in objection to an application, the applicant must be allowed to speak. An applicant may speak at a meeting even where there are no objectors or Ward Members wishing to speak.
  - 2.4 All requests to speak at a meeting of the Planning Committee, including those from Ward Councillors or those notified under paragraph 1.2, must relate to a matter to be considered at the forthcoming meeting of the Committee and be accompanied by a written statement sufficiently setting out the planning matters the speaker wishes to raise at the meeting.
- ### 3. How can I speak at a meeting of the Planning Committee?
- 3.1 All requests to speak, including those from Ward Councillors or those notified under paragraph 1.2, should be received by Democratic Services no later than noon two working days prior to the meeting, excluding the day on which the meeting is to be held, (for example, as the

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Planning Committee usually meets on a Thursday, the deadline for registration and receipt of a written statement, sufficiently setting out the planning matters the speaker wishes to raise at the meeting, will be 12 Noon on the Tuesday before the day of the meeting) in one of the following ways:

- (a) In writing, addressed to:

Clerk to the Planning Committee,  
Democratic Services,  
Thurrock Council,  
Civic Offices,  
New Road,  
Grays,  
Essex  
RM17 6SL

- (b) Via a form on the Council's web site at:

[http://www.thurrock.gov.uk/democracy/content.php?page=planning\\_form](http://www.thurrock.gov.uk/democracy/content.php?page=planning_form)

- (c) By e-mail to

[direct.democracy@thurrock.gov.uk](mailto:direct.democracy@thurrock.gov.uk)

- (d) By fax to

(01375) 652779

- (e) If any assistance in registering to speak at a meeting is required, please telephone (01375) 652031.

- 3.2 The Chair of the Planning Committee will not normally allow members of the public to speak if they have failed to notify the Council of their wish to do so in one of the ways described above.
- 3.3 Where there is more than one request to speak on a particular application, the requests made will be entered into a ballot. To ensure transparency, the ballot will be held at 4.00 p.m. two working days prior to the Meeting (excluding the day on which the Meeting is to be held) and applicants/owners and/or their planning agents and objectors will be invited to witness the ballot. All potential speakers will be advised of the outcome.
- 3.4 Where a request is made to speak in opposition to an Application, the applicant or agent shall have the right to reply at the Committee. A copy of the speaker's written objection will be forwarded to the applicant or their agent and, if they wish to speak at the Committee, the applicant or agent must forward their response, in writing, to Democratic Services by noon on the working day before the meeting of the Committee.
- 3.5 Although Democratic Services will make every effort to advise the applicant/agent where any such notice has been received, it is the responsibility of the applicant/agent to check two working days (excluding the day on which the Committee is to be held) before the application is to be considered as to whether or not anyone has registered to speak.
- 3.6 The Committee will be provided with copies of the written statements, as referred to at Rule 2.4, from all speakers prior to the meeting and the relevant agenda and reports will be published to the Council's web site at least five working days before the meeting, with a limited number of copies being made available to persons attending the Meeting.
- 3.7 The Chair may agree to accept representations made outside these procedures where there are exceptional circumstances, for example where someone can show that they have been prejudiced by a failure of the Council to follow procedures in this Constitution. The Chair will state the reasons for using his/her discretion in this respect and these will be included in the minutes of the meeting.

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#### **4. What happens at the meeting of the Planning Committee?**

- 4.1 Applications will usually be taken in the order that they appear on the published Agenda. However, the Chair may exercise some discretion to allow for those applications subject to public participation to be taken first.
- 4.2 For any applications that are subject to public participation, the order in which registered speakers will be called to address the Committee will be as follows:
- (a) In the case of a planning application:
    - (i) An objector or their representative;
    - (ii) A Ward Councillor;
    - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct;
    - (iv) An applicant or his/her agent or representative;
  - (b) In the case of an enforcement matter:
    - (i) An objector or their representative
    - (ii) A Ward Councillor
    - (iii) Any Member of the Committee who has a prejudicial interest, speaking in accordance with paragraph 12(2) of the Members' Code of Conduct;
    - (iv) The owner or occupier of premises under enforcement action or his/her agent or representative;
- 4.3 A person who has registered to speak may address the Committee for a period not exceeding 3 minutes. If the time limit is exceeded, the Chair will immediately call for an end to the speech.
- 4.4 If a person who has registered to speak at the meeting does not attend, the application will be dealt with in their absence and will not, for that reason, be deferred.
- 4.5 No documentation may be circulated or audio or visual material presented to Members of the Planning Committee at the meeting.
- 4.6 The Planning Officer or the lawyer advising the Committee, in consultation with the Chair, may disallow any matter which may give offence, deal with confidential or exempt information or otherwise infringe the proper conduct of local government. In such cases, reasons for the disallowance will be given.
- 4.7 If the Committee decides to defer an item to a future meeting, any speakers on that item who have spoken at the time of deferring shall be given first priority to speak when the item is re-considered.
- #### **5. What can you speak about?**
- 5.1 Speakers can speak for themselves or on behalf of others. Any representations made should relate only to material planning considerations and not matters that fall outside the remit of the Committee.
- 5.2 Speakers are asked where possible not to repeat points made by other speakers.

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## Part 3 (d) – Planning Code of Good Practice

### 1. Background

- 1.1 This Planning Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and replaces the Council's former local code of conduct on planning matters.
- 1.2 This Code is based on the model adopted by the Association of Council Secretaries and Solicitors (ACSeS) and launched on the 14th February 2003, and has been updated. The drafting of the model code was subject to consultation and comment from a number of other local authorities through the machinery of ACSeS, the Standards Board for England, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

### 2. Introduction

- 2.1 The aim of this Code of Good Practice is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.2 The basis of the planning system is the consideration of private proposals against wider public interests. The key purpose of the planning system is to control development in the public interest.
- 2.3 Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 This Code of Good Practice applies to Members at all times when they involve themselves in the planning process. This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 2.5 This Code is drafted in terms of what you should do and what you should not do. If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

### 3. Relationship to the Members' Code of Conduct

- 3.1 Do apply the Rules in the Members' Code of Conduct first, which must be always be complied with.
- 3.2 Do then apply the Rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
  - (a) the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - (b) yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards Committee.

### 4. Registration and declaration of interests

- 4.1 Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your

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interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. (Use the disclosure form provided for disclosing interests.)

**Where your interest is personal and prejudicial:**

- 4.2 Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Planning Authority.
  - 4.3 Don't try to represent ward views, get another Ward Member to do so instead.
  - 4.4 Don't get involved in the processing of the application.
  - 4.5 Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
  - 4.6 Do notify the Monitoring Officer in writing and note that:
    - (a) you should send the notification no later than submission of that application where you can
    - (b) the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers
    - (c) it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee.
  - 4.7 Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee but only to make a presentation in the same manner than would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery.)
- 5. Fettering Discretion in the Planning Process: predetermination, predisposition or bias**
- 5.1 Don't fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.
  - 5.2 Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
  - 5.3 Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of Membership of both the proposing and planning determination Committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
  - 5.4 Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council, for example, or both a District/Borough and County Councillor), provided:

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- (a) the proposal does not substantially effect the well being or financial standing of the consultee body;
  - (b) you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - (c) you disclose the personal interest regarding your Membership or role when the Committee comes to considers the proposal.
- 5.5 Don't speak and vote on a proposal where you have fettered your discretion or you are pre-determined. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- 5.6 Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- 5.7 Do take the opportunity to exercise your separate speaking rights as a Ward/Local Member (this is granted by the planning procedure Rules or by the consent of the Chair and Committee) where you have represented your views or those of local electors and pre-determined, but do not have a personal and prejudicial interest. Where you do:
- (a) advise the Monitoring Officer or Chair that you wish to speak in this capacity before commencement of the item
  - (b) remove yourself from the Member seating area for the duration of that item
  - (c) ensure that your actions are recorded.
- 6. Development proposals submitted by Councillors and Officers, and Council Development**
- 6.1 Do be aware that proposals to their own authority by serving and former Councillors, Officers and their close associates and relatives can easily give rise to suspicions of impropriety. Therefore, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 6.2 Don't play any part in the decision-making process for applications by yourself or your relatives or friends. The consideration of a proposal from a Councillor in such circumstances would be considered as a prejudicial interest under the code and as such, the Councillor would be required to withdraw from any consideration of the matter.
- 6.3 Don't seek to 'improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any fewer rights than a member of the public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.
- 6.4 Do consider whether it would be wise to exercise your right to speak at the Committee considering your application in all the circumstances of the case, which could include the nature of the prejudicial interest and the relationship of the Councillor with the remainder of the Planning Committee.

- 6.5 Do consider your position if you are a Member whose Cabinet / Executive responsibility effectively makes you an advocate for the development in question. In such circumstances, the appropriate approach is likely to be that the Member is able to argue for the development but should not vote on the relevant applications.

## **7. Contact with Applicants, Developers and Objectors**

- 7.1 Do refer those who approach you for planning, procedural or technical advice to officers.
- 7.2 Do report to the Planning Officer or Monitoring Officer any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

### **Meetings**

- 7.3 Don't agree to any meeting with applicants, agents, developers or groups of objectors where you can avoid it.
- 7.4 Do speak to the Planning Officer where you feel that a formal meeting would be useful in clarifying the issues.
- 7.5 Don't seek to arrange that meeting yourself but ask the Planning Officer to organise it. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- 7.6 Do otherwise:
- (a) follow the Rules on lobbying (see Paragraph 8 below)
  - (b) consider whether or not it would be prudent in the circumstances to make notes when contacted

### **Presentations**

- 7.7 Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.
- 7.8 Do ask relevant questions at any presentation for the purposes of clarifying your understanding of the proposals.
- 7.9 Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the Planning Authority.
- 7.10 Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

## **8. Lobbying of Councillors**

- 8.1 Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or to express such a firm point of view that it amounts to the same thing.
- 8.2 Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 8.3 Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is

declared as soon as possible and remember to register of interests where its value is over £25 (in accordance with the authority's Rules on gifts and hospitality).

- 8.4 Do copy or pass on any lobbying correspondence you receive to the Monitoring Officer at the earliest opportunity.
- 8.5 Do promptly refer to the Planning Officer any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 8.6 Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 8.7 Do note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - (a) listening or receiving viewpoints from residents or other interested parties
  - (b) making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind
  - (c) seeking information through appropriate channels
  - (d) being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## 9. Lobbying by Councillors

- 9.1 Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest.
- 9.2 Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- 9.3 Don't excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- 9.4 Don't decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political group meetings should never dictate how Members should vote on a planning issue.

## 10. Site Visits

- 10.1 Do try to attend site visits organised by the Council where possible.
- 10.2 Don't request a site visit unless you feel it is strictly necessary because:
  - (a) particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or

- (b) there are significant policy or precedent implications and specific site factors need to be carefully addressed.

- 10.3 Do ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- 10.4 Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 10.5 Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 10.6 Don't hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 10.7 Don't express opinions or views to anyone.
- 10.8 Don't enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

## **11. Public Speaking at Meetings**

- 11.1 Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the procedure for public speaking, as this may give the appearance of bias.
- 11.2 Do ensure that you comply with the Council's procedures in respect of public speaking.

## **12. Officers**

- 12.1 Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Management Manager, which may be incorporated into any Committee report).
- 12.2 Do recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- 12.3 Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## **13. Decision Making**

- 13.1 Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- 13.2 Do come to meetings with an open mind and demonstrate that you are open minded.
- 13.3 Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 13.4 Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new

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information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.

- 13.5 Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 13.6 Do have recorded the reasons for Committee's decision to defer any proposal.
- 13.7 Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- 13.8 Do follow the Planning Committee Procedure Rules (Rule 7 in Part 3 (b) above) when considering proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan.
- 13.9 Do be aware that you may have to justify the resulting decision against officer recommendation by giving evidence in the event of any challenge.

#### **14. Training and Review**

- 14.1 Don't participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 14.2 Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plan beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 14.3 Do participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

## Part 4 – Licensing Committee

### Part 4 (a) – Terms of Reference of the Licensing Committee

Council has determined that the Licensing Committee shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

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| <b>1. LICENSING COMMITTEE</b>  |  |
| <b>Appointed by:</b><br>The Council under section 6 of the Licensing Act 2003 and section 102 of the Local Government Act 1972   | <b>Number of Elected Members:</b><br>Fifteen   |
| <b>Chair and Vice-Chair appointed by:</b><br>The Council   | <b>Political Proportionality:</b><br>The elected Members shall be appointed in accordance with Political Proportionality |
| <b>Quorum:</b><br>Three  | <b>Co-opted Members to be appointed by Council:</b><br>None  |
| <b>Functions determined by Council:</b>  |  |
| <ol style="list-style-type: none"> <li>1. To undertake all matters in relation to the Council's licensing, permit and registration function, including Part VI of the Essex Act 1987, other than: <ol style="list-style-type: none"> <li>1.1 Functions specifically delegated to the Cabinet or another Committee;</li> <li>1.2 The approval of byelaws; or</li> <li>1.3 The approval of policy guidelines for any other matter where the Committee considers they should be approved by the Council;</li> </ol> </li> <li>2. The grant, approval, review, refusal, revocation, renewal, transfer or variation of any licence registration, certificate, consent, permit, approval or permission, except where such function falls within the terms of reference of any other Committee or Sub-Committee or where the function has been delegated to an Officer unless the Officer refers the matter to the Committee for a decision.</li> <li>3. To exercise the Council's functions under any of the "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer;</li> <li>4. To enforce byelaws;</li> <li>5. To advise the Council on its byelaws in relation to hackney carriage and private hire vehicles, operators and drivers;</li> <li>6. To advise the Council on its powers to make an order identifying designated places for the purposes of police powers in relation to alcohol under section 13 Criminal Justice and Police Act 2001.</li> <li>7. To keep under review and make minor alterations to the Committee's procedures.</li> <li>8. The function of determining relevant fees under section 212 of the Gambling Act 2005 be delegated to the Licensing Committee.</li> </ol> <p>In exercising its functions under the Licensing Act 2003 and the Gambling Act 2005, the Committee may regulate its own proceedings and those of its Sub-Committees, subject to any Regulations made</p> |  |

under the Acts.

Without prejudice to the generality of the foregoing, this delegation includes the licensing and registration functions set out in the first column of Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

**Functions determined by Statute:**

1. To undertake all the functions of a licensing authority under the Licensing Act 2003 except:
  - 1.1 approving the Authority's Licensing Statement under section 5 of the Act; and
  - 1.2 referring licensing matters to another Committee under section 7(5) of the Act;

Note that, under section 7(9) of the Act, where the Licensing Committee is unable to discharge its functions because of the number of its Members who are unable to take part in the consideration of any matter or vote, the Committee must refer the matter to the Council which shall discharge it.

2. To undertake all the functions of a licensing authority under Part 8 of the Gambling Act 2005, except:
  - 2.1 approving the Authority's licensing policy under section 349 of the Act; and
  - 2.2 deciding not to issue casino licences under section 166 of the Act;

Note that, under section 7(9) of the 2003 Act as applied by the Gambling Act 2005, where the Licensing Committee is unable to discharge its functions because of the number of its Members who are unable to take part in the consideration of any matter or vote, the Committee must refer the matter to the Council which shall discharge it.

The Licensing Committee has established a Licensing Sub-Committee, as follows:

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| <b>2. LICENSING SUB-COMMITTEE</b>  |   |
| <b>Appointed by:</b><br>The Licensing Committee under section 10 of the Licensing Act 2003 and section 102 of the Local Government Act 1972  | <b>Number of Elected Members:</b><br>Three Members of the Licensing Committee   |
| <b>Chair and Vice-Chair appointed by:</b><br>The Chair of the Licensing Committee (or Vice Chair if the Chair is not available) will Chair meetings of the Sub-Committee   | <b>Political Proportionality:</b><br>There is no requirement for Members to be appointed in accordance with Political Proportionality |
| <b>Quorum:</b><br>Three  | <b>Co-opted Members to be appointed by Council:</b><br>None   |
| <b>Functions determined by Council:</b><br><br>To hear and determine appeals on matters delegated to the Licensing Committee and to grant, approve, review, refuse, revoke, renew, suspend, transfer or vary any registration, certificate, consent, permit, approval or permission that the Licensing Committee may determine, except where the function has been delegated to an Officer unless the Officer refers the matter to the Committee for a decision.<br><br>To discharge such functions of the Licensing Committee as may be delegated to the Sub-Committee from time to time. |   |
| <b>Functions determined by Statute</b>   |   |

2.1 The Licensing Committee has delegated the following function(s) to the Head of Public Protection:

- (a) Undertaking all functions of the Authority under section 10 of the Licensing Act 2003 and section 154 of the Gambling Act 2005, except where:
  - (i) There is a requirement in the Licensing Act 2003, or regulations made thereunder, or a provision in guidance issued by the Secretary of State under section 182 of the Act that a particular function may only be carried out by the Council, Licensing and Appeals Sub-Committee or a sub-Committee of the Licensing and Appeals Sub-Committee; or
  - (ii) There is a provision elsewhere in this Constitution which requires that a particular function is reserved for the Council or the Appropriate Committee.
- (b) The power to grant or refuse applications for minor variations to Premises Licences under Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.

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## Part 4 (b) – Procedure for Licensing Hearings under the Licensing Act 2003

NB. References below to the “Sub-Committee” shall be taken to refer also to the Licensing Committee.

### 1. Procedure for Licensing Hearings

- 1.1 At the beginning of the hearing, the Chair will introduce all Members of the Sub-Committee and those Officers present. Members must be present throughout the hearing and must not communicate with any Officer, the applicant or other third party except in accordance with these procedure Rules.
- 1.2 Following the introduction of the Sub-Committee, the Chair shall also introduce any objectors, the presenting Officer for the licensing authority and any other interested parties.
- 1.3 The applicant or their representative will be invited to introduce themselves to the Sub-Committee.
- 1.4 The Sub-Committee will consider any requests from the parties for permission for another person to appear at the hearing.
- 1.5 The Chair will confirm that there is no reason why any of the three Members of the Sub-Committee should not participate in the matter to be considered.
- 1.6 If a party has informed the authority that he/she does not intend to attend or be represented at a hearing, the hearing may proceed in their absence.
- 1.7 If a party who has not so indicated fails to attend or be represented at a hearing the authority may:
  - (a) Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
  - (b) Hold the hearing in the party’s absence.
- 1.8 Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- 1.9 Where the authority adjourns the hearing to a specified date it must notify the parties of the date, time and place to which the hearing has been adjourned.
- 1.10 At the beginning of the hearing, the Chair shall explain to all parties present the procedure to be followed. The Chair will confirm that this is a discussion to be led by the authority that any questions should generally be put through the Chair, and that cross-examination shall only be permitted if the Sub-Committee considers that it is necessary.
- 1.11 The Chair will ask all parties present if they have any requests to cross-examine. Any such requests shall be considered by the Sub-Committee. If agreed, the procedure set out below will be followed.
- 1.12 If there are no requests for cross examination, or if such a request is not permitted, the hearing shall be conducted as follows:-
  - (a) The Officer from the Licensing Section will present his/her factual report on the application.
  - (b) Each party making representations will address the Sub-Committee in turn and will call other persons where permission has been given.
  - (c) The applicant/licence holder will present their case and will call other persons where permission has been given.
  - (d) Members may ask questions of all parties and persons.

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- (e) Questions from the parties must be directed through the Chair unless cross-examination has been permitted.
- (f) All parties will have the opportunity to make a closing statement, with the applicant/licence holder having the final word.
- 1.13 The Sub-Committee will retire in private to consider the application and will be accompanied by its Legal Advisor and Democratic Services Officer.
- 1.14 Once a decision has been reached, the Sub-Committee will invite all parties back to hear the decision. The Chair of the Sub-Committee should call upon the Legal Advisor to inform all parties of any legal advice that was received during the private session. The Chair of the Sub-Committee or Legal Advisor should read out the decision in full, outlining any additional conditions, for the benefit of all in attendance.
- 1.15 The Sub-Committee may adjourn the hearing to the next reasonably practical working day to continue the hearing or give its decision.
- 1.16 The Chair should advise the Applicant, relevant authorities and interested parties that they will be notified of the decision and reasons for the decision in writing within 5 working days of the hearing.
- 1.17 Such notification shall advise the applicant/licensee of his rights of appeal to the Magistrates' Court or other appropriate body.

## **2. Cross-Examination Procedure for Licensing Hearings**

- 2.1 Should cross-examination be permitted, it will take place in the following order:
- (a) **Case on behalf of any Responsible Authorities,**
- The case on behalf of any responsible authorities
  - Questioning of any responsible authorities by the applicant or licensee
  - Questioning of any responsible authorities by any interested parties
  - Questioning of any responsible authorities by Members
- (b) **Case on behalf of Interested Parties**
- The case on behalf of any interested parties.
  - Questioning of any interested parties by the applicant or licensee
  - Questioning of any interested parties by any responsible authorities
  - Questioning of any interested parties by Members
- (c) **Case on behalf of the applicant**
- The case on behalf of the applicant or licensee including the calling of witnesses
  - Questioning of the applicant or licensee and any witnesses by interested parties
  - Questioning of the applicant or licensee and any witnesses by any responsible authorities
  - Questioning of the applicant or licensee and any witnesses by Members
- (d) **Summing up** (in the following order):

- (i) Responsible authorities
- (ii) Interested parties
- (iii) The applicant/licensee

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## Part 4 (c) – Licensing Protocol

### 1. Introduction

- 1.1 The Licensing Protocol relates to the conduct of all Members, including Members of the Licensing Committee established under the Licensing Act 2003 and the Local Government Act 1972.
- 1.2 The Licensing Protocol supplements the Members' Code of Conduct and is intended to assist Members in taking licensing decisions openly with sound judgement and reasons.
- 1.3 For the purposes of this protocol, the term 'Licensing Committee' includes any of its Sub-Committees.

### 2. Guiding principles for Licensing Committee Members

- 2.1 Do not express personal opinions before a meeting or hearing. To do so would indicate that you had made up your mind before hearing all the evidence and that your decision may not be based on relevant policies and guidance.
- 2.2 Do not take or declare a firm view on the merits of an application, nor organise support or opposition in advance of any meeting or hearing.
- 2.3 Do keep an open mind until after you have considered all the evidence and arguments presented on behalf of all parties as you must demonstrate that you are open minded.
- 2.4 Do seek the advice of the Monitoring Officer or Legal Officer in attendance at the meeting as to whether it is appropriate for you to take part in any meeting when you have been personally involved in an application that is to be considered.
- 2.5 Do not make your decision based on a political party direction given at a party group meeting or otherwise.
- 2.6 Do not have pre-meeting briefings before a Licensing Committee.
- 2.7 Do not expect to represent an individual party at a meeting of the Sub-Committee and remain as a decision maker.
- 2.8 You must always comply with the general principles set out in Section 1 of the Members' Code of Conduct in Chapter 7.

### 3. Decision making – the Rules of natural justice

- 3.1 You must comply with the Rules of natural justice, ensuring that all parties have an opportunity to be heard whilst acting honestly and impartially. You must make an objective and impartial determination of any issues based upon any written and oral evidence and not make or give the appearance of making a biased decision. The legal test of bias is "whether a fair minded observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased".<sup>3</sup>
- 3.2 Applicants have a right to a fair hearing. For a hearing to be fair a number of conditions must be satisfied including: the right for the individual to know the opposing case; generally the right to call witnesses; the right to be represented at any meeting or hearing; and, the right to be given detailed reasons for any decision made.

### 4. Members' interests and licensing applications

- 4.1 Members must comply with Section 2 of the Members' Code of Conduct.

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<sup>3</sup> Porter v Magill [2002] 2 AC. 357 HL

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- 4.2 If you have visited licensed premises which are the subject of an application in your personal life do consider whether this might give rise to an appearance of bias. Merely visiting licensed premises (even on a regular basis) will not necessarily give rise to an interest under the Members' Code of Conduct.
- 4.3 Declarations of interests should be made at the beginning of a meeting or hearing.
- 4.4 If you have a personal interest you will normally have a prejudicial interest if the matter being decided is one which a member of the public with knowledge of all the facts would regard as so significant that it is likely to prejudice your judgement of the public interest. This is subject, however, to paragraph 10 (2) of the Members' Code of Conduct, which lists some circumstances where you will not have such an interest, or that permit an exemption to this general principle. (Please refer to Chapter 7, Part 3, Section 2 of the Constitution for further details).
- 4.5 Where a personal interest is also prejudicial, you must not sit as part of the Licensing Sub-Committee for a particular licence application unless a dispensation has been obtained from the Council's Standards Committee.
- 4.6 If you have a personal and prejudicial interest in an application you must not take part in that decision. You may answer questions and make representations the same as any member of the public is entitled to and in accordance with the public speaking Rules the Council operates.
- 4.7 If you have been involved in Council meetings which approved any licensing policy of the Council, you will not be excluded for that reason.

## **5. Gifts and hospitality**

- 5.1 You should be aware of public perception when accepting any gift or hospitality from licensed premises and should act with extreme caution when accepting any gift whatsoever, regardless of monetary value.
- 5.2 You should register offers of gifts and hospitality as well as any actual gifts and hospitality you receive.
- 5.3 It is generally acceptable for Members of the Licensing Committee to accept light non-alcoholic refreshment such as tea, coffee, soft drinks and biscuits.
- 5.4 You should add to your register of interests any gift or hospitality where its value is over £25.

## **6. Applications submitted by the local authority**

- 6.1 Where the local authority itself submits any licence application (for example a premises licence for open space or buildings in its ownership under the Licensing Act 2003), the application must be considered in exactly the same manner as any other application. You must give no regard to the interests of the Council itself, aside from receiving relevant representations on the issue.
- 6.2 If you have taken a role in the decision to submit the application, you must not sit on the Licensing Sub-Committee which determines the application.
- 6.3 You should be cautious when expressing views about an application and be aware of any potential appearance of bias and if in doubt, should seek advice.

## **7. Lobbying**

- 7.1 If you are approached by persons wishing to lobby you about a licence application, then you must politely explain that whilst you can listen to what is said, you cannot discuss the matter or express a view as this would prejudice impartiality and the ability to take part in the decision making process. The lobbyist should be referred instead to the Head of Public Protection. You

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should inform the Monitoring Officer if you feel that you have been exposed to undue or excessive lobbying approaches.

- 7.2 If you receive any written representations you should pass them to the Head of Public Protection to take whatever action is appropriate.
- 7.3 Any requests for procedural advice should also be passed to the Head of Public Protection.
- 7.4 Members of the Council who do not sit on the Licensing Committee should exercise extreme caution before deciding to lobby Members of the Licensing Committee, directly or indirectly, in writing or otherwise, in respect of applications with a view to influencing their decision.
- 7.5 You can listen to the views of other Members and interested parties but you should avoid making comments that might amount to you prejudging the matter.

## **8. Recording of reasons**

- 8.1 You must give reasons for all licensing decisions. Such reasons must be based upon relevant considerations and should reflect findings of fact made at a meeting or hearing. These reasons must be recorded in writing and whilst Officers may assist in formulating the exact wording, the reasons must be those of the Members.

## **9. Site visits**

- 9.1 Prior to any meeting of a Licensing Committee or Sub-Committee, the Licensing Officer may be of the opinion that a site visit should be arranged to premises which are the subject of licence applications to enable Sub Committee Members to become familiar with the issues to be considered. During any such visits, Members will be accompanied by a licensing officer(s), together with an officer from Democratic Services, and they should only enquire about and discuss factual matters, avoiding the temptation to put forward their own opinions. Members attending such a site visit will not, under any circumstances, accept refreshments on the premises or any other gift or offer of hospitality.
- 9.2 Notwithstanding Rule 9.1 above, site visits are generally unnecessary in respect of licensing applications. They should only be held where particular site factors are significant and cannot be ascertained from plans provided with the application.
- 9.3 Where a site visit is deemed necessary, it will be part of the formal hearing process so all Members must attend. All other parties should also be given the opportunity to attend.
- 9.4 No representations from the applicant or those making representations shall be heard or accepted on site.
- 9.5 No indication of the likely outcome of the application should be given on site.

## **10. Conduct at hearings**

- 10.1 Members of the Licensing Committee should not communicate directly with the applicant or any parties to an application other than publicly through the Chair.
- 10.2 Questioning of speakers is to clarify arguments and to test evidence. You should not express a view at that stage, nor intimidate those speaking.
- 10.3 Any material considered by the Licensing Committee must originate from a relevant party to any application and all relevant procedural regulations must be complied with.
- 10.4 You must not vote or take part in the decision making process unless you have been present to hear the entire debate, including the presentation of the licensing Officer's report.

**11. Training**

- 11.1 You should not participate in licensing decisions if you have not participated in any mandatory licensing training provided by the Council and should endeavour to attend any other specialised training sessions designed to extend knowledge of licensing law and practice.

## Part 5 – Terms of reference of other Committees

Council has determined that Committees shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

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| <b>1.</b>  | <b>GENERAL SERVICES COMMITTEE</b>  |  |
| <b>Appointed by:</b><br>The Council under section 102 of the Local Government Act 1972   | <b>Number of Elected Members:</b><br>Seven   |  |
| <b>Chair and Vice-Chair appointed by:</b><br>The Council   | <b>Political Proportionality:</b><br>The elected Members shall be appointed in accordance with Political Proportionality |  |
| <b>Quorum:</b><br>Three  | <b>Co-opted Members to be appointed by Council:</b><br>None  |  |
| <p>Functions determined by Council:</p> <ol style="list-style-type: none"> <li>1. To advise the Council on the appointment or dismissal of, or the arrangements for the appointment or dismissal of, the Head of the Paid Service;</li> <li>2. To appoint or dismiss or make arrangements for the appointment or dismissal of Directors, the Chief Finance Officer or the Monitoring Officer</li> <li>3. To deal with any of the functions of the Council in relation to the employment of staff that are not dealt with by Officers under delegated powers, or which may be referred to them by an Officer waiving his/her power to make a decision, including powers to: <ol style="list-style-type: none"> <li>3.1 designate Officers (other than the Head of Paid Service) for specific statutory purposes;</li> <li>3.2 exercise the Council's power of suspension of a Statutory Officer, after taking appropriate legal advice;</li> <li>3.3 appoint any Sub-Committee or panel or other body to exercise the Committee's powers in relation to staff grading, disciplinary, grievance or any other staffing matter;</li> <li>3.4 determine any other staffing matter that it is within the remit of the Council;</li> <li>3.5 determine any matter in respect of compromise agreements and superannuation;</li> </ol> </li> <li>4. To settle cases of claimed or actual maladministration etc;</li> <li>5. To advise the Council on major changes to the Constitution;</li> <li>6. Insofar as is within the remit of the Council, to make casual or urgent appointments to outside bodies;</li> <li>7. To agree any arrangements for the appointment of a joint Overview and Scrutiny Committee under section 245, National Health Service Act 2006, and any regulations made thereunder.</li> <li>8. To exercise the functions of the Council in relation to elections, parish and town Councils, vacancies and local bills;</li> <li>9. To make recommendations to the Council in respect of any change to the electoral arrangements</li> </ol> |  |  |

for the authority.

10. Subject to, and without prejudice to, the generality of the foregoing, to exercise the powers and functions of the Council in relation to the provisions referred to in column (2) of Schedule 1 to the Local Authorities (Functions and Responsibilities Regulations) (England) Regulations 2000 as amended, including the following legislation and any amendment and replacement thereof and any regulations made thereunder:

#### **Acts of Parliament**

European Parliamentary Elections Act 1978, Schedule 1, paras. 4(3) and (4)

Health and Social Care Act 2001, section 8

Local Government Act 1972, sections 10,11, 75, 86, 87, 91, 101, 112, 151 and 239

Local Government Act 2000, section 82

Local Government and Housing Act 1989 sections 4(1) and 5(1)

Local Government and Rating Act 1997

Representation of the People Act 1983, sections 8(2), 18, 31, 35, 39(4), 52(4), 54, 106, 112, 135, 151, 270(3) and Schedule 12, para. 42

Representation of the People Act 1985, section 21

Representation of the People Act 2000, sections 10 and 93

Superannuation Act 1972, sections 7, 12, and 24

#### **Subordinate Legislation**

Commons Registration (General) Regulations 1966

Commons Registration (New Land) Regulations 1969, Reg. 6

Local Election (Parishes and Communities) Rules 1986

Local Elections (Principle Areas) Rules 1986

#### **Functions determined by Statute**

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| <b>2.</b>  | <b>AUDIT COMMITTEE</b>   |  |
| <b>Appointed by:</b><br>The Council under section 102 of the Local Government Act 1972   | <b>Number of Elected Members:</b><br>Six   |  |
| <b>Chair and Vice-Chair appointed by:</b><br>The Council   | <b>Political Proportionality:</b><br>The elected Members shall be appointed in accordance with Political Proportionality |  |
| <b>Quorum:</b><br>Three elected Members  | <b>Co-opted Members to be appointed by Audit Committee:</b><br>Three, non-voting, to be appointed by the Committee       |  |
| <b>Functions determined by Council:</b>  |  |  |
| <p>1. Providing independent assurance that the Authority's financial and risk management is adequate and effective and that there is a sound system of internal control that facilitates the effective exercise of its functions, including:</p> <p>1.1 keeping under review the Authority's own audit standards and whether they are relevant and represent best practice;</p> <p>1.2 considering or reviewing the following and the action taken on them and advising the Council and/or the Cabinet, as appropriate:</p> <ul style="list-style-type: none"> <li>(a) internal and external audit plans and progress against plans</li> <li>(b) summaries of external and internal audit reports and progress against recommendations made in audit reports</li> <li>(c) the annual report of the internal auditor and the Annual Governance Statement</li> <li>(d) approving the annual statement of accounts and whether appropriate accounting policies have been followed</li> <li>(e) reports from inspection agencies, including the external auditor's Annual Management letter and report to those charged with governance issues</li> <li>(f) keeping under review the Authority's control environment and anti fraud and anticorruption arrangements, including compliance with the Financial and Contracts Procedure Rules</li> <li>(g) keeping under review the relationships between external and internal audit and other inspection agencies.</li> </ul> <p>2. Reviewing the performance of the Council's appointed Internal Audit provider.</p> |  |  |
| <b>Functions determined by Statute</b>   |  |  |