



Coventry City Council

To all Members of the Council

**Customer and Workforce  
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6 December 2010

Dear Councillor

**Meeting of Council, 7<sup>th</sup> December 2010**

**Booklet 1: Amendments to the Constitution - Procedure Rules on Public Speaking at Planning Committee**

Please note that, unfortunately, the documents that were sent to you in respect of the above item were incomplete. In order that Members are clear as to what authority is being sought, an amended Booklet 1 has been produced in its entirety and is attached to this letter. Please disregard the version previously circulated.

Apologies for any inconvenience caused.

If you have any queries, please do not hesitate to contact me on the telephone number shown above.

Yours sincerely

Carolyn Sinclair  
Committee Officer



INVESTOR IN PEOPLE





Coventry City Council

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# Council Meeting

7 December 2010

**AMENDED**

**Booklet 1**

Recommendations

# **INDEX TO MINUTES**

Standards Committee, 25 November 2010

## STANDARDS COMMITTEE

25<sup>th</sup> November, 2010

Members Present:- City Council Members

Councillor R. Lakha  
Councillor K. Mulhall  
Councillor A. Williams

Independent Members

G. Allen  
D. Delieu  
C. Edden  
D. Jackson  
A. Patel  
Professor B. Ray

Parish Councillors

B. Shakespeare

Employees Present:- T. Darke (City Services and Development)  
C. Forde (Council Solicitor/Assistant Director (Legal Services))  
J. McLellan (Customer and Workforce Services Directorate)  
G. Paddan (Customer and Workforce Services Directorate)

Apologies:- D. Lilly  
J. Willetts

### **RECOMMENDATIONS**

#### **18. Amendments to the Constitution – Procedure Rules on Public Speaking at Planning**

Further to Minute 10/10, the Committee considered a report of the Director of Finance and Legal Services and the Development Manager which had previously been considered by the Constitution Working Group at their meeting on 2<sup>nd</sup> November, 2010, which detailed proposed changes to the existing Constitution in respect of Planning Committee and replace them with the proposed Procedure Rules on Public Speaking and Functions Delegated to Employees.

Appended to the report were the relevant parts of the existing Constitution (4.10). It was these that were proposed to be amended and replaced with the suggested changes to the Public Speaking procedures for Planning Committee. The changes were proposed to ensure the Planning Committee operated in a more timely and efficient manner which achieved best use of resources in terms of value for money, was legally compliant and was fair and transparent to all elected Members and the public.

The Constitution Working Group had suggested changes to the proposals so that the right balance was struck between timeliness and efficiency whilst also allowing interested parties sufficient time to have their views heard by the Committee.

It was proposed to amend the Planning Committee Procedure Rules on Public Speaking in Sections 4.10.1.3 and 4 of the Constitution such that:

- (1) Members (or registered spokesperson) addressing Planning Committee in whatever capacity would be limited to a maximum of 5 minutes, with a further maximum of 2 minutes to summarise after all public speakers have spoken. All other speakers addressing the Committee (including petition spokespersons, applicants or their nominee) would be limited to a maximum of 3 minutes.
- (2) Previous reports to Standards Committee and Full Council proposed that "*no more than one nominated speaker (apart from a Member) can speak either in support of or against an application*". However, concern was expressed that this would not allow for adequate coverage of all relevant issues, particularly in cases where groups of residents had a wide range of comments regarding larger applications, which invariably raise varied and complex issues. Therefore, in recognition of this and also to strike the right balance with timeliness it was proposed that no more than 2 nominated speakers (apart from a Member) can speak in support of an application and no more than 2 nominated speakers (apart from a member) can speak against an application. But in the case of a planning application that was defined as a Major Application, the limit on the number of speakers would be at the discretion of the Chair of the Planning Committee.

A major application was defined as:-

For dwellings – where 10 or more dwellings were proposed, or if the number of dwellings was not given, the site area was more than 0.5 hectares.

For all other development – where the floor area to be built was over 1,000 sq.m or the site area was more than 1 hectare.

Or any other application as determined by the Chair

- (3) Speakers would be advised to avoid repetition of comments made by other speakers and would only be allowed to speak in respect of comments that had already been submitted in writing in respect of the application. For the purposes of good order, the Chair would be entitled to curtail public speaking where he or she deems necessary.
- (4) A registered speaker wishing to have supporting information displayed to the Planning Committee during the meeting will be required to submit this to Officers 24 hours before the start of the Planning Committee, and the content of the information to be displayed would be with the agreement of the Development Manager or nominee.

- (5) Speakers would only be allowed one opportunity to address the Committee, irrespective of whether the application was deferred to a later Planning Committee. However, if material changes arose following the deferment, or there were exceptional reasons submitted by the speakers to allow them to address the Committee again, the Chair of the Planning Committee had discretionary power to allow registered speakers an opportunity to address the Committee on the new issues.
- (6) No written additional information should be circulated to Members of the Planning Committee on the day of the Committee.

It was further proposed to amend Section 5.5.11 of the Constitution (Public Speaking at Planning Committee) and the accompanying Appendix 1 (Guide to Public Speaking at Planning Committee) in recognition of comments and concerns that had been raised in respect of suggested limitations on the number of speakers at Planning Committee. It was therefore suggested that greater opportunity be given for those persons wishing to register to speak. At present anyone wishing to register to speak must do so only within the 21 day notification period on a planning application. As an alternative it is proposed that anyone wishing to register to speak for or against an item that was required to be reported to Planning Committee could now do so up to 48 hours before the time of the Committee meeting (subject to limitations on the number of speakers proposed in (2) above). As the Committee schedule was normally compiled up to 2 weeks before the date of the meeting, writing to all persons who had commented on a planning application; the applicant or their agent; and Members could then inform them of their opportunity to register to speak. 48 hours would allow for sufficient notice for the applicant or their representative to be contacted and to organise having their right to reply.

In the event of elected Member requesting that an application be reported to Planning Committee, that they give material planning reasons for this in writing.

It was anticipated that, by reducing the number of less-contentious applications and enforcement matters that were reported to the Committee, these changes would improve the quality of decision and level of scrutiny given to larger, complex and significant planning applications by Planning Committee whilst still allowing Members and public representations to be fully covered in a succinct and timely manner that avoids unnecessary duplication or repetition of comments.

The Committee noted:-

- (1) that the Planning Committee would be asked to amend the current functions Delegated to Employees in the Land and Property Affecting Amenity part of the Constitution, such that the Head of Planning, Highways and Transportation and the Development Manager be delegated authority to make decisions relating to Building Control matters.
- (2) that the changes would be for an initial 12 month trial period, however, if significant issues arose, these could be reconsidered earlier, and in any event, a verbal report to be submitted to the Constitution Working Group on the changes would be made after 6 months.

**RECOMMENDED that the Council approve the following amendments to Parts 4.10 and 5.5 of the Constitution as detailed below and shown as tracked**

changes in the attached extract from the Constitution.

1. **Members (other than in a private resident capacity) can speak for 5 minutes and all other speakers for 3 minutes for petitions**
2. **Members (other than in a private resident capacity) can speak for 5 minutes (plus a further 2 minutes to summarise) and all other speakers for 3 minutes for planning applications**
3. **Speakers only allowed one opportunity to address the committee. However, if there are material changes that arise following a deferred application, or there are exceptional reasons submitted by the speakers, the Chair of Planning Committee has discretion to allow registered speakers to speak on new issues**
4. **there will be no more than 2 nominated speakers (apart from a member) speaking in support of an application and no more than 2 nominated speakers (apart from a member) speaking against an application**
5. **Where there is a Major Application the Chair of Planning Committee will have discretion to determine the number of speakers.**
6. **No written additional information shall be circulated to Members of the Planning Committee on the day of the Committee. Supporting information must be submitted 24 hours before the start of the Committee meeting and the content of the information to be displayed will be with the agreement of the Development manager or nominee**
7. **Those wishing to speak at Committee must register no later than 48 hours before the start of the Committee meeting.**

N.B. Councillor Williams voted against the proposals to restrict public speaking at the Planning Committee and requested that this be recorded.



4.10 **Planning Committee Procedure Rules**

4.10.1 The procedure at Planning Committee (the Committee) will be as follows.

4.10.1.1 **General**

The Committee will comprise the number of Councillors of the City Council appointed by the full Council at their annual meeting. There will be no provision for substitute Councillors to attend Committee meetings.

The quorum for all meetings (including site visits) will be five Councillors and no business will be transacted if any meeting or part of a meeting (or site visit) will not be quorate.

The Committee will meet at times and places appointed and published in accordance with the requirements of the Local Government Act 1972, as amended.

The Chair will preside over meetings of the Committee and, where the Chair is absent for the whole or part of the meeting, the Deputy-Chair will preside over the meeting or that part of it. In the absence of both the appointed Chair and Deputy-Chair for either the whole of or part of a meeting, the Committee will appoint from those Councillors then present a person to act as Chair for the duration of that meeting or part of it. (All references to 'Chair' in these rules will be read as referring to the person acting as Chair at the relevant meeting or part of it).

The Chair of the Committee meeting will be responsible for:

- (i) calling items for consideration as they appear on the Agenda,
- (ii) calling and allowing persons to speak at the Committee meeting,
- (iii) calling any matters for consideration which do not appear on the Agenda and for giving the reason(s) for the urgency of hearing such matters,
- (iv) maintaining good order at the Committee meeting. For this purpose, the Chair has the right to curtail any speaker (including a Councillor of the Committee), or to suspend the Committee meeting, in cases of disorder, until good order has been restored.

In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

Decisions of the Planning Committee are not subject to call-in.

4.10.1.2 **Declarations**

4.10.1.2.1 **Declarations of Interests**

Councillors and Employees will, in accordance with their respective Model Codes of Conduct, declare any interests they have in respect of any items appearing on that

Committee's Agenda. These declarations will be made at the outset of the meeting under the item listed as 'declarations' on that Committee's Agenda or when that item is reached on the Agenda.

A Member of the Planning Committee who has asked that a particular application should be placed upon the agenda, rather than dealt with under delegated powers, will automatically be regarded as having a prejudicial interest in the application and must not take part in the deliberations on it.

#### 4.10.1.2.2 Declarations of 'Contacts'

Councillors and certain Planning Employees (being the Committee Planning Officer who presents the report and the Planning Case Officer) will declare all 'contacts' they have received in respect of planning applications appearing on that Committee's Agenda.

Councillors' declarations of 'contacts' will be made at the outset of the meeting under the item listed as 'contacts' on that Committee's Agenda or when the application is reached on the Agenda.

Planning Employees' declarations will be made in the written report in respect of that application or verbally if received after publication of that report.

Councillors and Planning Employees will declare as 'contacts' those matters as they are defined in the 'Code of Good Planning Practice' as it appears elsewhere in this Constitution.

#### 4.10.1.3 Petitions

The Procedure in relation to petitions to Planning Committee are set out in paragraph 4.9.4.

At Planning Committee the length ~~of petition spokesperson's~~ speeches will be limited to five minutes for Members (other than as a private resident) and three minutes for all other speakers (including petition spokespersons, applicants or their nominees). ~~In addition, the applicant (or their agent/representative) will have the right of reply when a petition is presented in respect of a Planning Application. The Chair of the Planning Committee will have the discretion to ensure that any right of reply by an applicant (or their agent/representative) in response to a petition spokesperson's speech (which is limited to three minutes) will be of a proportionate amount of time.~~

#### 4.10.1.4 Consideration of Business on the Public Agenda and Public Speaking Scheme

The Committee will determine all applications for permissions, approvals and consents made to and consultations with the Council under the terms of reference of the Committee (all of which matters are referred to in these rules as 'applications'). All applications to be decided by the Committee will be dealt with as follows:

The Planning Officer will present the written report on the Agenda in respect of each item as called by the Chair. The Planning Officer may refer to photographs, plans, diagrams and such other aids as are necessary whilst presenting the written report. All

these aids will be displayed at the meeting. The Planning Officer will update the written report verbally in respect of matters occurring after publication of the Agenda and which have subsequently been communicated to the Planning Officer.

Where the matter is one to which the Council's Scheme of Public speaking at the Planning Committee applies, the Chair will then call speakers who have been registered to speak on that application.

- (i) A 'registered speaker' will be a person (other than the applicant or their representative) who has made written representations on the application to planning employees and have registered to speak with the Customer and Workforce Services Directorate.
- (ii) Any registered speaker may request a ward Councillor for the ward containing the application site to speak on their behalf. No member of the Committee may speak under the Public Speaking Scheme and participate in consideration of that application as a Committee member.
- (iii) Members addressing the Planning Committee in whatever capacity will be limited to 5 minutes (other than as a private resident), with a further 2 minutes to summarise after all speakers have spoken. All other speakers addressing Planning Committee under the Public Speaking Scheme will be allowed up to 3 minutes to address the Committee. Speakers will address the Committee in the following sequence:
  - objectors,
  - supporters, and
  - the applicant (or their representative).
- (iv) Speakers will only be allowed one opportunity to address the Committee, irrespective of whether the application is deferred to a later Planning Committee. However, if material changes arise following deferment, or there are exceptional reasons submitted by the speakers to address the Committee again, the Chair of Planning Committee has discretionary power to allow registered speakers an opportunity to address the Committee on new issues. ~~Where more than one objector or supporter addresses the Committee, second and subsequent respective speakers will be expected to raise new issues.~~
- (v) ~~(v)~~ There shall be no more than 2 nominated speakers (apart from a Member) speaking in support of an application and no more than 2 nominated speakers (apart from a Member) speaking against an application. But in the case of a planning application that is defined as a Major Application, the limit on the number of speakers would be at the discretion of the Chair of Planning Committee. A major application is defined as:-
  - o for dwellings - where 10 or more dwellings are proposed, or if the number of dwellings is not given, the site area is more than 0.5 hectares;
  - o for all other development where the floor area to be built is over 1,000 sq.m or the site area is more than 1 hectare and ~~Where there is more than one objector who speaks, the applicant (or their representative) may, at the discretion of the Chair, be allowed longer than 3 minutes to address the Committee.~~

o For any other development that the Chair determines is a major application

(vi) ~~(vi)~~ No written additional information shall be circulated to Members of the Planning Committee on the day of Committee. A registered speaker wishing to have supporting information displayed to the Planning Committee during the meeting will be required to submit this to Officers 24 hours before the start of Planning Committee, and the content of the information to be displayed will be with the agreement of the Development Manager or nominee.

(vii) For the purposes of good order in the meeting and to avoid repetition, the Chair will be entitled to curtail public speaking where he or she deems this necessary.

Following any speakers under the Public Speaking Scheme, Committee members (including the Chair) may speak on the application as called by the Chair and, where needs be, may question Employees on matters arising out of the application.

Employees may be required at any time after public speakers have been heard to address the Committee to answer questions asked or to comment or clarify any points that have been raised during consideration of the application or to advise the Committee.

Following consideration of the application the Chair will request the Committee to decide upon the application. Where the Committee are unanimous as to its decision on the application a vote will not be required. Where there is a difference of opinion as to its decision amongst Committee members, the Committee will move to a vote on the application.

Any dispute or question as to procedure at the Committee, including the operation of the Public Speaking Scheme, will be determined by the Chair, whose decision on all matters will be final.

**4.10.1.5 Voting**

In order to vote on an application, a member of the Committee must be present throughout the entire debate on an individual application.

All members of the Committee will have one vote. The Chair will have an extra casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.

The Chair will call for a vote where the Committee are not unanimous as to its decision on an application, unless no amendment to the recommendation is proposed or such amendment is withdrawn.

Voting will be either for the recommendation as it appears in the written report (or as amended by the Planning Officer verbally at the meeting) or for the amendment to the recommendation (as proposed by a member of the Committee). Where there is more than one amendment proposed, they will be voted on in the order in which they are proposed.

**HOW TO COMMENT ON PLANNING APPLICATIONS & PUBLIC SPEAKING  
AT PLANNING COMMITTEE**

**AN ADVISORY LEAFLET FOR GUIDANCE  
TO HELP YOU MAKE YOUR VIEWS KNOWN AT THE RIGHT TIME**

- **Introduction**

Public comments on development proposals are encouraged and welcomed by the Government and the City Council whether for small scale developments e.g. house extensions, or for large scale proposals affecting a whole locality. This leaflet explains how you can best put your views forward on planning applications so that they can be considered before a formal decision on the proposals is made.

- **Consultation Process**

You have received this notification letter as you either adjoin the application site, have shown interest in the proposal/site previously or it has been assessed that the proposal has potentially wider local interest. In certain circumstances notification is also undertaken through site notices displayed close to or on an application site and through statutory notices in the local newspaper.

Before making your observations you are advised to visit the Planning Advisory Desk (which is situated in the ground floor of Civic Centre 4) to inspect the plans and application documentation, as this will enable you to make an informed assessment of the proposal. If you are unsure about any aspect of the proposal then staff on the Advisory Desk will be able to help you.

However if you need to speak with the officer dealing with the application (the Case Officer), possibly about progress on the application, then they can be contacted by telephone. The name of the Case Officer and their direct dial number is given on the covering letter. If you wish to meet the Case Officer then it is advisable to make an appointment beforehand as they may be out of the office or otherwise unavailable.

If you would like to receive any independent advice on this or other planning matters then you can contact the West Midlands Planning Aid Service at Unit 319, The Custard Factory, Gibb Street, Birmingham B9 4AA (telephone – 0121 766 8044). Advice is available free of charge to community groups and individuals that cannot afford to pay for help.

- **Putting your comments in writing**

Although you may make your comments/objections known to the Case Officer or any other member of staff by telephone or face-to-face these cannot be given as much weight as written representations. You are strongly advised to formally place your observations in writing, which should be sent or e-mailed to the address given on the covering letter.

**Part 5.5 – Code of Good Planning Practice for Members and  
Employees Dealing with Planning Matters**

The City Council is expected to make a decision on an application within a set timescale – normally eight weeks but this is extended for certain major proposals to 13 weeks. Therefore there is a time limit for making your views known and the date before which your representation should be received is given in the covering letter. Any representation made that is made contrary to the view of officers will be referred to in the written officer report that will be presented to Committee. The officer report and agenda will be available five working days before the Committee is held and will be placed on the Council's website. Alternatively copies can be requested from the [Governance Services Committee](#) Officer on 024 76833166.

Any written representations for an application received after the publication of the officers report will be summarised and made available at the Committee, provided that the late representations are received no later than three working days before the Committee is held.

It is helpful if you give some reasons why you support or oppose the proposal. However those comments must be relevant and based on planning matters. These include :-

- the proposal's compliance with the adopted Development Plan;
- how the proposal fits in terms of design and use with the surroundings;
- the effect on sunlight and daylight on adjoining properties;
- the loss of privacy to adjoining properties;
- the effect on parking, traffic and road safety;
- noise and general disturbance to adjoining residents.

**Planning matters DO NOT INCLUDE**

- spoiling your view;
- rights to light;
- devaluing your property;
- covenants affecting properties;
- nuisance caused by building work;
- land ownership disputes;
- personal circumstances or character of the applicant;
- moral issues.

Anybody can comment. You do not need to have a direct interest in the application site or be an adjacent owner or occupier. You can support as well as object to a proposal. Remember that all comments received are open to public inspection and may be repeated in public documents.

- **HAVING YOUR SAY AT PLANNING COMMITTEE**

Most applications are determined under delegated powers by officers. However in certain instances, for example, major applications which depart from the Development Plan (and officers are recommending that permission be granted) or those where there are written representations which conflict with the officers recommendation, applications are considered by the Planning Committee. Their meetings are held normally every three weeks on a Thursday afternoon in the Council House and are open to the public.

Public speaking at the Committee is possible, although people making the same or similar points will be asked to choose someone to represent them or alternatively, you may ask one of your Ward Councillors to speak on your behalf.

If you have made written representations on a planning application (sent to the [Development Management Planning Control Team](#)) you will be notified when the Committee Schedule is compiled (normally 2 weeks before the date of the meeting). If you wish to register to speak at Planning Committee you and wish to speak at the Committee then you must also u must then contact the [Committee Governance Services](#) Officer on 024 7683 3166 by no later than 48 hours before the start of the Committee meeting. midnight on the last day of the notification period (usually 21 days) referred to in the Council's notification letter (attached) or by the date given on the site notice or advert. Failure to comply with this timescale will mean you will not be able to speak at Committee. You will then be contacted by the Council to confirm the arrangements 5 days before the meeting and will be supplied with a copy of the officers report. (Please remember that if your representation accords with the officers recommendation then the matter will be determined under delegated powers and you will be notified accordingly).

At the meeting the Chair will announce each item and the planning officer will report on the proposals and the main considerations displaying photos of the site and selected plans. The Chair will then invite speakers to address the meeting for a maximum of 3 minutes each (although the applicant or their representative may be allowed longer where two or more objectors speak). Any objectors will go first, followed by those in support and finally the applicant or their representative. Each public speaker has only the right to be heard once so it is important that you make your points in the time available. Representations should only be made on planning matters.

Councillors may ask the Planning Officer (or speaker on the issue of facts only) to clarify certain points raised before reaching their decision.

- **HOW ARE DECISIONS MADE**

Every decision will be made taking into account the following factors –

- whether the proposal complies with the development plan;
- the individual merits of the proposals;
- any relevant comments from consultees.

Your views are therefore only one aspect that is considered and may not override other factors. In law the decision must be made in accordance with the development plan unless material considerations indicate otherwise. Furthermore Government advice is that there

**Part 5.5 – Code of Good Planning Practice for Members and  
Employees Dealing with Planning Matters**

should be a general presumption in favour of development unless there are overriding planning objections to it.

- **AFTER THE DECISION**

If you have written to the City Council then you will be notified of the decision in writing which will set out the reason for refusal or conditions attached to any permission granted.

Once a decision is made only the person making the application has the right to appeal either against a refusal or any condition imposed on a permission. Neighbours and other interested parties cannot appeal against the decision.

If an appeal is made then an inspector nominated by the Planning Inspectorate will consider the matter. If you commented on the original planning application then you will be informed of the appeal and be invited to make representations to the Planning Inspectorate. Any comments you made on the original application will have already been forwarded to the Inspector. Further information about the appeal process is available from the Planning Advisory Desk.

- **COMMENCEMENT OF WORKS**

Once the development has commenced or completed if you believe it is not in accordance with the approved plans or conditions then please telephone or visit the Planning Advisory Desk or call the Planning Enforcement Team (Direct Dial [024] 7683 1226) and an officer will check the situation. This may require a visit to the site. Your request for us to investigate will be kept confidential and we will get back to you advising you of the action the Council propose to take.

- **OMBUDSMAN**

If you feel the proper procedures have not been followed by the City Council in making the decision then you can ask the Local Government Commissioner (the Ombudsman) to investigate whether maladministration has occurred. The Ombudsman however cannot consider the planning merits of the proposal. Further details about the Ombudsman are also available from the Planning Advisory Desk.

- **FINALLY**

We are here to help you. You can inspect the application and any relevant policy documents at the Planning Advisory Desk and if you do not understand any aspect of the proposals then please ask the reception staff or talk to the Case Officer. Our address and opening times are given on the covering letter.

Note – Any advice given in this leaflet is not intended to be an authoritative statement of the law. It is intended for guidance only.



**Report to**

Standards Committee  
Council

25 November 2010

7 December 2010

**Report of**

Director of Finance and Legal Services and Development Manager

**Title**

Amendments to the Constitution

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**1 Purpose of the Report**

Following consideration by the Constitution Working Group on 2 November 2010, the purpose of this report is to outline the proposals for change to the existing Constitution in respect of Planning Committee and replace them with the proposed Procedure Rules on Public Speaking and Functions Delegated to Employees

**2 Recommendations**

Standards Committee are asked to:

- 2.1 Review the amendments to Functions Delegated to Employees and recommend to Planning Committee that they be approved in place of the existing Functions as shown in tracked changes in the appendix
- 2.2 Review the amended Planning Committee Procedures Rules on Public Speaking and recommend to Council that they be approved in place of the existing Rules as shown in tracked changes in the appendix
- 2.3 Council are asked to amend Parts 3.6, 3.8, 4.10 and 5.5 of the Constitution
- 2.4 Note that the above changes would be for an initial 12 month trial period, however if significant issues arise, these can be reconsidered earlier. In any event, a verbal report to Constitution Working Group on the changes would be made after 6 months.

**3 Information/Background**

- 3.1 The relevant parts of the existing Constitution (3.6, 3.8, 4.10 and 5.5) are attached as an appendix and have been in place in respect of Planning and Building Control since July 2008. It is these that are proposed to be amended and replaced with the amended Procedures on Public Speaking and an extension to the Functions delegated to employees to ensure the Planning and Building Control operates in a timely and efficient manner which achieves best use of resources in terms of value for money, is legally compliant and is fair and transparent to all elected Members and the public.
- 3.2 The changes to delegation and public speaking that are proposed are consistent with the practices now employed by other local authorities in the area and further updates of this will be provided at the meeting.
- 3.3 In addition to reducing the numbers of less-contentious matters that are reported to Planning Committee, it is considered particularly necessary to extend delegated powers to employees in respect of enforcement work so as to ensure that this process can be more

pro-active and achieve results in a more time-efficient manner. Under the present system of limited delegation, additional time can be lost by Officers drafting reports and then needing to wait for the next available Planning Committee meeting. This can prolong the harm that unauthorised development causes, to the detriment of affected parties. However, it is still proposed that the Chair or Deputy Chair of Planning Committee are consulted in authorising the issue of Enforcement Notices, Section 215 Notices, Discontinuance notices in respect of advertisements, stop notices and temporary stop notices and injunctions and Breach of Condition Notices and that a Quarterly report is made to Planning Committee summarising the actions taken.

- 3.4 There are also further suggested changes to the Public Speaking procedures for Planning Committee.
- 3.5 This report follows consideration of all the suggested changes by Constitution Working Group on 2 November 2010.
- 3.6 Standards Committee previously considered a report on suggested changes to Planning Committee Procedures Rules on Public Speaking on 14 October, with Full Council also considering the report on 19 October. It was agreed to refer the report back to Constitution Working Group, Standards Committee and Full Council following concerns that were expressed on the suggested limitations on the number of public speakers.
- 3.7 Planning Committee considered a report on suggested changes to Functions Delegated to Employees on 21 October 2010 and concerns were expressed particularly regarding delegation of enforcement work.

#### **4 Proposal and Other Option(s) to be Considered**

- 4.1 To extend the current Functions Delegated to Employees in the Planning Functions of Part 3.8 of the Constitution so that the Director of City Services and Development (or nominee) in consultation with the Chair or Deputy Chair of Planning Committee can issue and serve:
  - 4.1.1 Enforcement notices;
  - 4.1.2 Section 215 Notices in respect of untidy land;
  - 4.1.3 Discontinuance notices in respect of advertisements;
  - 4.1.4 This is subject to a quarterly report (unless otherwise agreed by the Chair) from Officers back to Planning Committee, summarising the actions taken
- 4.2 To extend the current Functions Delegated to Employees in the Planning Functions of Part 3.8 of the Constitution so that the Director of City Services and Development (or nominee) in consultation with the Chair or Deputy Chair of Planning Committee and the Assistant Director and Head of Legal Services can issue and serve:
  - 4.2.1 Stop notices and temporary stop notices and injunctions;
  - 4.2.2 Breach of Condition Notices
  - 4.2.3 This is subject to a quarterly report (unless otherwise agreed by the Chair) from Officers back to Planning Committee, summarising the actions taken
- 4.3 To extend the current Functions Delegated to Employees in the Planning Functions of Part 3.8 of the Constitution so that the Development Manager (or nominee) can:
  - 4.3.1 Issue and serve Section 16 Notices and section 330 Notices (requisition for information);
  - 4.3.2 Issue and serve Planning Contravention Notices;
  - 4.3.3 Conclude enforcement investigations where it is not considered expedient to take enforcement action.
  - 4.3.4 This is subject to a quarterly report (unless otherwise agreed by the Chair) from Officers back to Planning Committee, summarising the actions taken
- 4.4 To allow the Development Manager, in consultation with the Head of Legal Services, to approve the negotiation, completion and subsequent variation of legal agreements in accordance with the Development Plan and adopted Guidelines.

- 4.4.1 To amend the Planning Functions of Part 3.8 of the Constitution relating to the determination of applications such that the Head of Planning Highways and Transportation/ Development Manager (or nominee) be delegated to make decisions on applications not being the subject of 5 or more representations (which are material planning comments) that are contrary to officer recommendation.
- 4.4.2 To extend the list of applications that can be delegated to the Head of Planning Highways and Transportation/ Development Manager (or nominee) to include recently introduced applications for material and non-material amendments, applications for the discharge of conditions.
- 4.5 To amend the Planning Committee Procedures Rules on Public Speaking in Section 4.10.1.4 of the Constitution such that:
- 4.5.1 Members (or registered spokesperson) addressing Planning Committee in whatever capacity (other than as a private resident) will be limited to a maximum of 5 minutes, with a further maximum of 2 minutes to summarise after all public speakers have spoken. All speakers addressing the Committee (including petition spokespersons and applicants or their nominee) will be limited to a maximum of 3 minutes and;
- 4.5.2 Previous reports to Standards Committee and Full Council proposed that *"no more than one nominated speaker (apart from a Member) can speak either in support of or against an application"*. However, concern was expressed that this would not allow for adequate coverage of all relevant issues, particularly in cases where groups of residents had a wide range of comments regarding larger applications, which invariably raise varied and complex issues. Therefore, in recognition of this and also to strike the right balance with timeliness, it is proposed that no more than 2 nominated speakers (apart from a Member) can speak in support of an application and no more than 2 nominated speakers (apart from a Member) can speak against an application. But in the case of a planning application that is defined as a Major Application, the limit on the number of speakers would be at the discretion of the Chair of Planning Committee. A major application is defined as:-
- 4.5.2.1 For dwellings – where 10 or more dwellings are proposed, or if the number of dwellings is not given, the site area is more than 0.5 hectares.
- 4.5.2.2 For all other development – where the floor area to be built is over 1,000 sq.m or the site area is more than 1 hectare;
- 4.5.3 Speakers will be advised to avoid repetition of comments made by other speakers and will only be allowed to speak in respect of comments that have already been submitted in writing in respect of the application. For the purposes of good order, the Chair will be entitled to curtail public speaking where he or she deems necessary;
- 4.5.4 A registered speaker wishing to have supporting information displayed to the Planning Committee during the meeting will be required to submit this to Officers 24 hours before the start of planning committee, and the content of the information to be displayed will be with the agreement of the Development Manager or nominee, and;
- 4.5.5 Speakers will only be allowed one opportunity to address the Committee, irrespective of whether the application is deferred to a later Planning Committee. However, if material changes arise following the deferment, or there are exceptional reasons submitted by the speakers to allow them to address the Committee again, the Chair of Planning Committee has discretionary power to allow registered speakers an opportunity to address the committee on the new issues and;
- 4.5.6 No written additional information shall be circulated to Members of the Planning Committee on the day of committee.
- 4.5.7 To amend Section 5.5.11 of the Constitution (Public Speaking at Planning Committee) and the accompanying Appendix 1 (Guide to Public Speaking at Planning Committee) in recognition of comments and concerns that had been raised in respect of suggested limitations on the number of public speakers at Planning Committee. It is, therefore,

suggested that greater opportunity be given for those persons wishing to register to speak. At present anyone wishing to register to speak must do so only within the 21 day notification period on a planning application. As an alternative it is suggested that anyone wishing to register to speak for or against an item that is required to be reported to Planning Committee can now do so up to 48 hours before the time of the Committee meeting (subject to limitations on the number of speakers suggested in para. 4.5.2 above). As the Committee schedule is normally compiled up to 2 weeks before the date of the meeting, writing to all persons who have commented on a planning application; the applicant or their agent; and Members can then inform them of their opportunity to register to speak. 48 hours would allow for sufficient notice for the applicant or their representative to be contacted and to organise having their right to reply.

- 4.6 In the event of elected Members requesting that an application be reported to Planning Committee, that they give material planning reasons for this in writing.
- 4.7 It is anticipated that, by reducing the number of less-contentious applications and enforcement matters that are reported to the Committee, these changes will improve the quality of decision and level of scrutiny given to larger, complex and significant planning applications by Planning Committee whilst still allowing Members and public representations to be fully covered in a succinct and timely manner that avoids unnecessary duplication or repetition of comments.
- 4.8 To amend the current functions Delegated to Employees in the Land and Property Affecting Amenity part of the Constitution, such that the Head of Planning, Highways and Transportation and the Development Manager be delegated authority to make decisions relating to Building Control matters.

## 5 Other specific implications

### 5.1

	<b>Implications (See below)</b>	<b>No Implications</b>
Best Value		√
Children and Young People		√
Climate Change & Sustainable Development		√
Comparable Benchmark Data		√
Corporate Parenting		√
Coventry Sustainable Community Strategy		√
Crime and Disorder		√
Equal Opportunities	√	
Finance		√
Health and Safety		√
Human Resources		√
Human Rights Act		√
Impact on Partner Organisations		√

	<b>Implications (See below)</b>	<b>No Implications</b>
Information and Communications Technology		√
Legal Implications		√
Neighbourhood Management		√
Property Implications		√
Race Equality Scheme		√
Risk Management	√	
Trade Union Consultation		√
Voluntary Sector – The Coventry Compact		√

#### 5.2 Equal Opportunities

The proposed changes will affect people's opportunities for making representations on planning applications, but it is considered that the changes will be fair and transparent.

#### 5.3 Legal

It is vital that the procedures are clear and that the Council adheres to regulations and procedures so that it would not give rise to legal challenges and complaints.

#### 5.4 Risk Management

Appropriate measures are incorporated into the scheme of delegation to ensure that where a reasoned justification is given, Members may call matters to Committee which would otherwise be delegated to officers. The regular reports of delegated decision will ensure that appropriate scrutiny is maintained

### 6 **Timescale and expected outcomes**

6.1 Once approved by Planning Committee, the scheme of delegation can be implemented immediately.

6.2 Once approved by Council, the Planning Committee Procedures Rules on Public Speaking can be implemented in respect of all planning application received after that date.

6.3 The introduction of an improved scheme of delegation will enable a more efficient operation of the planning function and enforcement actions in particular

	<b>Yes</b>	<b>No</b>
<b>Key Decision</b>	√	
<b>Scrutiny Consideration (if yes, which Scrutiny meeting and date)</b>		√
<b>Council Consideration (if yes, date of Council meeting)</b>	√	

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**3.6 Planning Committee**

Reference should also be made to **Part 4.11** – Planning Committee Procedure Rules

**3.6.1 Functions Delegated to the Planning Committee.**

The Planning Committee will have responsibility for the following delegated functions **except** where specific functions have been delegated to an employee of the Council by virtue of Part 3.8 of this Constitution.

	<b>Function</b>	<b>Statutory Reference</b>
1.	Powers and duties relating to local development documents which are development plan documents	Sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004 (c.5) and the Planning and Compulsory Purchase Act 2004 (Commencement Order No. 2, (Transitional Provisions and Savings) Order 2004 (SI 2004/2202) in so far as they confer a power or impose a duty
2.	Power to agree to establish a Joint Committee to be, for the purposes of Part 2 of the Planning and Compulsory Act 2004, a local planning authority	Section 29 of the Planning and Compulsory Purchase Act 2004 and the Planning and Compulsory Purchase Act 2004 (Commencement Order No. 2, Transitional Provisions and Savings) Order 2004 (SI 2004/2202) in so far as they confer a power or impose a duty
3.	Power to agree to confer additional functions on a joint committee	Section 30 of the Planning and Compulsory Purchase Act 2004
4.	Power to request the dissolution of a joint committee	Section 31 of the Planning and Compulsory Purchase Act 2004
5.	Power to determine application for planning permission	Sections 70 (1) (a) and (b) (modified by the Town and Country Planning (Trees) Regulations 1999 (SI 1999/1892) Reg. 2(1)) and 72 of the Town and Country Planning Act 1990 (c.8)

**Part 3.6 – Functions of Planning Committee**

6.	Power to determine applications to develop land without compliance with conditions previously attached	Section 73 of the Town and Country Planning Act 1990
7.	Power to grant planning permission for development already carried out	Section 73A of the Town and Country Planning Act 1990
8.	Power to decline to determine application for planning permission	Section 70A of the Town and Country Planning Act 1990
9.	Duties relating to the making of determinations of planning applications	Sections 69, 76 (repealed by the Planning and Compulsory Purchase Act 2004 Sch 6, paras. 1, 4, Schedule 9) and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2005 (SI 2005/85) and directions made thereunder
10.	Power to determine application for planning permission made by a local authority, alone or jointly with another person	Section 316 of the Town and Country Planning Act 1990 substituted by the Planning and Compensation Act 1991 section 12(1) and the Planning and Compulsory Purchase Act sub-sections 118(1), 120, sch 6, para 1, 5, sch 9 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492) and any other regulations thereunder
11.	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Schedule 1 and Parts 2, 5, 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) and any other enactment and regulations thereunder
12.	Power to enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990



**Part 3.6 – Functions of Planning Committee**

13.	Power to issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990 (substituted by the Planning and Compensation Act 1991 section 10(1))
14.	Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 section 51(2)(b), 6
15.	Power to grant consent for the display of advertisements	Section 220 of the Town and Country Planning Act 1990, the Environment Act 1995, section 120(1), sch 22, para 233(1), and the Antisocial Behaviour Act 2003 section 48(1)(a) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (SI 2007/783) and any other regulations made thereunder
16.	Power to authorise entry onto land	Section 196A of the Town and Country Planning Act 1990
17.	Power to require the discontinuance of a use of land	Section 102 of the Town and Country Planning Act 1990
18.	Power to serve or withdraw a planning contravention notice, breach of condition notice, stop notice or temporary stop notice	Sections 171C, 171E, 187A and 183(1) (now revised by the Planning and Compensation Act 1991 section 9 of the Town and Country Planning Act 1990
19.	Power to issue an enforcement notice, vary or withdraw an enforcement notice	Section 172 and Section 173a of the Town and Country Planning Act 1990 (substituted by the Planning and Compensation Act 1991 section 5)
20.	Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990
21.	Power to determine applications for hazardous substances consent, and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 as amended by the Environmental Protection Act 1990

**Part 3.6 – Functions of Planning Committee**

22.	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 as modified by the Planning and Compulsory Purchase Act 2004, s 87, (c.34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act
23.	Power to require proper maintenance of land and to extend the compliance period to comply with a notice issued in this respect <u>and to take direct action where the notice is not complied with</u>	Section 215(1) and Sections <u>216(7) and 219(1)</u> of the Town and Country Planning Act 1990
24.	Power to determine application for listed building consent, and related powers	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)
25.	Power to determine applications for conservation area consent	Section 16(1) and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by section 74(3) of that Act
26.	Duties relating to applications for listed building consent and conservation area consent	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 as amended by the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2003 (SI 2003/2048), the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2004 (SI 2004/2210), the Planning (Listed Buildings and Conservation Areas) (Amendment) (No 2) (England) Regulations 2004 (SI 2004/3341) and paragraphs 8, 15 and 22 of the Department of the Environment Circular 14/97
27.	Power to serve a building preservation notice, and related powers	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

**Part 3.6 – Functions of Planning Committee**

28.	Power to issue enforcement notice in relation to demolition of a listed building in conservation area	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990
29.	Powers to acquire a listed building in need of repair and to serve a repairs notice	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990
30.	Power to apply for an injunction in relation to a listed building	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990
31.	Power to execute urgent works	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
32.	Powers relating to the preservation of trees	Sections 197 to 214D Town and Country Planning Act 1990 and Trees Regulations 1999 (SI 1999/1892) as amended by the Transport Act 2000 (Consequential Amendments) Order 2001(SI 2001/4050) and any regulations made thereunder
33.	Power to make limestone pavement order	Section 34(2) Wildlife and Countryside Act 1981
34.	Power to create footpaths, bridleways and restricted byways	Sections 25 and 26 of the Highways Act 1980
35.	Duty to keep register of information with respect to maps, statements and declarations	Section 31 Highways Act 1980
36.	Power to apply for judicial stopping up or diversion of a highway	Section 116 Highways Act 1980
37.	Power to stop up footpaths, bridleways and restricted byways	Section 118 of the Highways Act 1980
38.	Powers to divert footpaths bridleways and restricted byways	Section 119 of the Highways Act 1980 (and Restricted Byways (Application and Consequential Amendments of Provisions)

**Part 3.6 – Functions of Planning Committee**

		Regulations 2006 (SI 2006/1177)
39.	Duty to assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980
40.	Power to authorise temporary disturbance of surface of footpath, bridleway and restricted byways	Section 135 Highways Act 1980 (and Restricted Byways (Application and Consequential Amendments of Provisions) Regulations 2006 (SI 2006/1177)
41.	Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980
42.	Duty to keep a definitive map and Statement under review	Section 53 of the Wildlife and Countryside Act 1981 as amended by the Countryside and Rights of Way Act 2000, s 51
43.	Duty to reclassify roads used as public footpaths Power to grant permission for provision of services, amenities, recreation and refreshment facilities on highway and related powers	The Countryside and Rights of Way Act 2000, ss 47(1), 102, sch 16, pt II Sections 115E-K Highways Act 1980
44.	Power to permit deposit of a builder's skip on highway	Section 139 of the Highways Act 1980
45.	Power to license planting retention and maintenance of trees etc in part of highway	Section 142 of the Highways Act 1980
46.	Power to authorise erection of stiles etc on footpaths and bridleways	Section 147 of the Highways Act 1980
47.	Power to license works in relation to buildings etc which obstruct the highway	Section 169 of the Highways Act 1980
48.	Power to consent to temporary deposits or excavations in streets	Section 171 of the Highways Act 1980

**Part 3.6 – Functions of Planning Committee**

49.	Power to dispense with obligation to erect hoarding or fence	Section 172 of the Highways Act 1980
59.	Power to restrict the placing of rails, beams etc over highways	Section 178 of the Highways Act 1980
51.	Power to consent to construction of cellars, etc under highways	Section 179 of the Highways Act 1980
52.	Power to consent to the making of openings into cellars etc under streets, and pavement lights	Section 180 of the Highways Act 1980
53.	Power to register common land or town and village greens except where the power is exercisable solely for the purpose of giving effect to –  (a) an exchange of lands effected by an order under section 19(3) or paragraph 6(4) of Schedule 3 Acquisition of Land Act 1981 as amended by The Planning and Compensation Act 1991 or	Regulation 6 Commons registration (New Land) Regulations 1969 (SI 1969/1843) amended by the Coal Industry Act 1994 (Consequential Modifications of Subordinate Legislation) Order 1994 (SI 1994/2567)
	(b) an order under section 147 of the Inclosure Act 1845 (and Commons Act 2006 not yet in force)	
54.	Power to register variation of rights of common  Functions relating to the registration of common land and town or village greens  Powers to apply for enforcement orders against unlawful works on common land, to protect and take enforcement action in respect of unclaimed common land and town or village greens.	Regulation 29 of the Commons Registration (General) Regulations 1996 (S.I 1996/1471)  Part 1 Commons Act 2006 and the Commons registration (England) Regulations 2008  Sections 41 and 45 Commons Act 2005

**Part 3.6 – Functions of Planning Committee**

55.	Power to determine applications for public path extinguishment orders and special extinguishment orders	Section 118ZA and 118C(2) of the Highways Act 1980
56.	Power to make a rail crossing extinguishment order	Section 118A of the Highways Act 1980
57.	Power to make a special extinguishment order	Section 118B of the Highways Act 1980
58.	Power to determine applications for a public path diversion order and special diversion order	Section 119ZA and 119C(4) of the Highways Act 1980
59.	Power to make a rail crossing diversion order	Section 119A of the Highways Act 1980
60.	Power to make a special diversion order	Section 119B of the Highways Act 1980
61.	Power to require applicant for order to enter into agreement	Section 119C(3) of the Highways Act 1980
62.	Power to make an SSSI diversion order	Section 119D of the Highways Act 1980
63.	Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Section 121B of the Highways Act 1980
64.	Power to decline to determine certain applications	Section 121C of the Highways Act 1980
65.	Duty to serve notice of proposed action in relation to obstruction	Section 130A of the Highways Act 1980
66.	Power to apply for variation of order under section 130B of the Highways Act 1980	Section 130B of the Highways Act 1980

**Part 3.6 – Functions of Planning Committee**

67.	Power temporarily to divert footpath, bridleway and restricted byways	Section 135A of the Highways Act 1980
68.	Functions relating to the making good of damage and the removal of obstructions	Section 135B of the Highways Act 1980
69.	Power to extinguish certain public rights of way	Section 32 of the Acquisition of Land Act 1981 (c.67)
70.	Power to include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981
71.	Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981 and the Wildlife and Countryside Act 1981 (England) (Regulations) 2005 (SI 2005/2461)
72.	Power to prepare map and statement by way of consolidation of definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981 and the regulations under the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 (as amended by (SI 2006/1177) reg 2 sch. Part 2)
73.	Power to designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984 (c.38)
74.	Power to extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1985 (c.68)
75.	Power to authorise stopping-up or diversion of footpath or bridleway	Section 257 of the Town and Country Planning Act 1990
76.	Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town and Country Planning Act 1990
77.	Power to enter into agreements with respect of means of access	Section 35 of the Countryside and Rights of Way Act 2000. (c.37)

78.	Power to provide access in absence of agreement	Section 37 of the Countryside and Rights of Way Act 2000
79.	Power relating to the protection of important hedgerows	The Hedgerows Regulations 1997 (SI 1997/1160) and any other regulations thereunder
80.	Power to adjudicate on high hedges complaints	Part 8 of the Anti Social Behaviour Act 2003
81.	Power to require the removal of any advertisement displayed or the discontinuance of the use of any site for the display of advertisements	Section 224 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) (Amendment) Regulations 2007 and any other regulations thereunder

**3.6.2 Matters incidental to the exercise of the Committee's delegated functions**

3.6.2.1 The exercise of the above functions by the Planning Committee will include the power to impose any condition limitation or other restriction on any approval consent licence permission or registration granted in the exercise of those functions and the power to determine any other terms to which any such approval consent licence permission or registration is subject.

3.6.2.2 The exercise of the above functions by the Planning Committee will include the power to determine whether, and in what manner, to enforce any failure to comply with any approval consent licence permission or registration granted or any failure to comply with the condition limitation or term to which a such approval consent licence permission or registration is subject or any other contravention in relation to a matter with regard to which the function has been exercised.

3.6.2.3 The exercise of the above functions by the Planning Committee will include the power to amend modify or vary any such approval consent licence permission or registration or any condition limitation or term to which it is subject and the power to revoke any such approval consent licence permission or registration.

**3.6.2.4 Legal Proceedings**

The Planning Committee shall have the power to institute, defend, and conduct legal proceedings in furtherance of or arising from the discharge of functions delegated to it.







4.10 **Planning Committee Procedure Rules**

4.10.1 The procedure at Planning Committee (the Committee) will be as follows.

4.10.1.1 **General**

The Committee will comprise the number of Councillors of the City Council appointed by the full Council at their annual meeting. There will be no provision for substitute Councillors to attend Committee meetings.

The quorum for all meetings (including site visits) will be five Councillors and no business will be transacted if any meeting or part of a meeting (or site visit) will not be quorate.

The Committee will meet at times and places appointed and published in accordance with the requirements of the Local Government Act 1972, as amended.

The Chair will preside over meetings of the Committee and, where the Chair is absent for the whole or part of the meeting, the Deputy-Chair will preside over the meeting or that part of it. In the absence of both the appointed Chair and Deputy-Chair for either the whole of or part of a meeting, the Committee will appoint from those Councillors then present a person to act as Chair for the duration of that meeting or part of it. (All references to 'Chair' in these rules will be read as referring to the person acting as Chair at the relevant meeting or part of it).

The Chair of the Committee meeting will be responsible for:

- (i) calling items for consideration as they appear on the Agenda,
- (ii) calling and allowing persons to speak at the Committee meeting,
- (iii) calling any matters for consideration which do not appear on the Agenda and for giving the reason(s) for the urgency of hearing such matters,
- (iv) maintaining good order at the Committee meeting. For this purpose, the Chair has the right to curtail any speaker (including a Councillor of the Committee), or to suspend the Committee meeting, in cases of disorder, until good order has been restored.

In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

Decisions of the Planning Committee are not subject to call-in.

4.10.1.2 **Declarations**

4.10.1.2.1 **Declarations of Interests**

Councillors and Employees will, in accordance with their respective Model Codes of Conduct, declare any interests they have in respect of any items appearing on that

Committee's Agenda. These declarations will be made at the outset of the meeting under the item listed as 'declarations' on that Committee's Agenda or when that item is reached on the Agenda.

A Member of the Planning Committee who has asked that a particular application should be placed upon the agenda, rather than dealt with under delegated powers, will automatically be regarded as having a prejudicial interest in the application and must not take part in the deliberations on it.

#### 4.10.1.2.2 Declarations of 'Contacts'

Councillors and certain Planning Employees (being the Committee Planning Officer who presents the report and the Planning Case Officer) will declare all 'contacts' they have received in respect of planning applications appearing on that Committee's Agenda.

Councillors' declarations of 'contacts' will be made at the outset of the meeting under the item listed as 'contacts' on that Committee's Agenda or when the application is reached on the Agenda.

Planning Employees' declarations will be made in the written report in respect of that application or verbally if received after publication of that report.

Councillors and Planning Employees will declare as 'contacts' those matters as they are defined in the 'Code of Good Planning Practice' as it appears elsewhere in this Constitution.

#### 4.10.1.3 Petitions

The Procedure in relation to petitions to Planning Committee are set out in paragraph 4.9.4.

At Planning Committee the length ~~of petition spokesperson's~~ speeches will be limited to five minutes for Members (other than as a private resident) and three minutes for all other speakers (including petition spokespersons, applicants or their nominees). ~~In addition, the applicant (or their agent/representative) will have the right of reply when a petition is presented in respect of a Planning Application. The Chair of the Planning Committee will have the discretion to ensure that any right of reply by an applicant (or their agent/representative) in response to a petition spokesperson's speech (which is limited to three minutes) will be of a proportionate amount of time.~~

#### 4.10.1.4 Consideration of Business on the Public Agenda and Public Speaking Scheme

The Committee will determine all applications for permissions, approvals and consents made to and consultations with the Council under the terms of reference of the Committee (all of which matters are referred to in these rules as 'applications'). All applications to be decided by the Committee will be dealt with as follows:

The Planning Officer will present the written report on the Agenda in respect of each item as called by the Chair. The Planning Officer may refer to photographs, plans, diagrams and such other aids as are necessary whilst presenting the written report. All

these aids will be displayed at the meeting. The Planning Officer will update the written report verbally in respect of matters occurring after publication of the Agenda and which have subsequently been communicated to the Planning Officer.

Where the matter is one to which the Council's Scheme of Public speaking at the Planning Committee applies, the Chair will then call speakers who have been registered to speak on that application.

- (i) A 'registered speaker' will be a person (other than the applicant or their representative) who has made written representations on the application to planning employees and have registered to speak with the Customer and Workforce Services Directorate.
- (ii) Any registered speaker may request a ward Councillor for the ward containing the application site to speak on their behalf. No member of the Committee may speak under the Public Speaking Scheme and participate in consideration of that application as a Committee member.
- (iii) Members addressing the Planning Committee in whatever capacity will be limited to 5 minutes (other than as a private resident), with a further 2 minutes to summarise after all speakers have spoken. All other speakers addressing Planning Committee under the Public Speaking Scheme will be allowed up to 3 minutes to address the Committee. Speakers will address the Committee in the following sequence:
  - objectors,
  - supporters, and
  - the applicant (or their representative).
- (iv) Speakers will only be allowed one opportunity to address the Committee, irrespective of whether the application is deferred to a later Planning Committee. However, if material changes arise following deferment, or there are exceptional reasons submitted by the speakers to address the Committee again, the Chair of Planning Committee has discretionary power to allow registered speakers an opportunity to address the Committee on new issues. ~~Where more than one objector or supporter addresses the Committee, second and subsequent respective speakers will be expected to raise new issues.~~
- (v) ~~(v)~~ There shall be no more than 2 nominated speakers (apart from a Member) speaking in support of an application and no more than 2 nominated speakers (apart from a Member) speaking against an application. But in the case of a planning application that is defined as a Major Application, the limit on the number of speakers would be at the discretion of the Chair of Planning Committee. A major application is defined as:-
  - o for dwellings - where 10 or more dwellings are proposed, or if the number of dwellings is not given, the site area is more than 0.5 hectares;
  - o for all other development where the floor area to be built is over 1,000 sq.m or the site area is more than 1 hectare and ~~Where there is more than one objector who speaks, the applicant (or their representative) may, at the discretion of the Chair, be allowed longer than 3 minutes to address the Committee.~~

o For any other development that the Chair determines is a major application

(vi) ~~(vi)~~ No written additional information shall be circulated to Members of the Planning Committee on the day of Committee. A registered speaker wishing to have supporting information displayed to the Planning Committee during the meeting will be required to submit this to Officers 24 hours before the start of Planning Committee, and the content of the information to be displayed will be with the agreement of the Development Manager or nominee.

(vii) For the purposes of good order in the meeting and to avoid repetition, the Chair will be entitled to curtail public speaking where he or she deems this necessary.

Following any speakers under the Public Speaking Scheme, Committee members (including the Chair) may speak on the application as called by the Chair and, where needs be, may question Employees on matters arising out of the application.

Employees may be required at any time after public speakers have been heard to address the Committee to answer questions asked or to comment or clarify any points that have been raised during consideration of the application or to advise the Committee.

Following consideration of the application the Chair will request the Committee to decide upon the application. Where the Committee are unanimous as to its decision on the application a vote will not be required. Where there is a difference of opinion as to its decision amongst Committee members, the Committee will move to a vote on the application.

Any dispute or question as to procedure at the Committee, including the operation of the Public Speaking Scheme, will be determined by the Chair, whose decision on all matters will be final.

4.10.1.5 Voting

In order to vote on an application, a member of the Committee must be present throughout the entire debate on an individual application.

All members of the Committee will have one vote. The Chair will have an extra casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.

The Chair will call for a vote where the Committee are not unanimous as to its decision on an application, unless no amendment to the recommendation is proposed or such amendment is withdrawn.

Voting will be either for the recommendation as it appears in the written report (or as amended by the Planning Officer verbally at the meeting) or for the amendment to the recommendation (as proposed by a member of the Committee). Where there is more than one amendment proposed, they will be voted on in the order in which they are proposed.

**HOW TO COMMENT ON PLANNING APPLICATIONS & PUBLIC SPEAKING  
AT PLANNING COMMITTEE**

**AN ADVISORY LEAFLET FOR GUIDANCE  
TO HELP YOU MAKE YOUR VIEWS KNOWN AT THE RIGHT TIME**

- **Introduction**

Public comments on development proposals are encouraged and welcomed by the Government and the City Council whether for small scale developments e.g. house extensions, or for large scale proposals affecting a whole locality. This leaflet explains how you can best put your views forward on planning applications so that they can be considered before a formal decision on the proposals is made.

- **Consultation Process**

You have received this notification letter as you either adjoin the application site, have shown interest in the proposal/site previously or it has been assessed that the proposal has potentially wider local interest. In certain circumstances notification is also undertaken through site notices displayed close to or on an application site and through statutory notices in the local newspaper.

Before making your observations you are advised to visit the Planning Advisory Desk (which is situated in the ground floor of Civic Centre 4) to inspect the plans and application documentation, as this will enable you to make an informed assessment of the proposal. If you are unsure about any aspect of the proposal then staff on the Advisory Desk will be able to help you.

However if you need to speak with the officer dealing with the application (the Case Officer), possibly about progress on the application, then they can be contacted by telephone. The name of the Case Officer and their direct dial number is given on the covering letter. If you wish to meet the Case Officer then it is advisable to make an appointment beforehand as they may be out of the office or otherwise unavailable.

If you would like to receive any independent advice on this or other planning matters then you can contact the West Midlands Planning Aid Service at Unit 319, The Custard Factory, Gibb Street, Birmingham B9 4AA (telephone – 0121 766 8044). Advice is available free of charge to community groups and individuals that cannot afford to pay for help.

- **Putting your comments in writing**

Although you may make your comments/objections known to the Case Officer or any other member of staff by telephone or face-to-face these cannot be given as much weight as written representations. You are strongly advised to formally place your observations in writing, which should be sent or e-mailed to the address given on the covering letter.

**Part 5.5 – Code of Good Planning Practice for Members and  
Employees Dealing with Planning Matters**

The City Council is expected to make a decision on an application within a set timescale – normally eight weeks but this is extended for certain major proposals to 13 weeks. Therefore there is a time limit for making your views known and the date before which your representation should be received is given in the covering letter. Any representation made that is made contrary to the view of officers will be referred to in the written officer report that will be presented to Committee. The officer report and agenda will be available five working days before the Committee is held and will be placed on the Council's website. Alternatively copies can be requested from the [Governance Services Committee](#) Officer on 024 76833166.

Any written representations for an application received after the publication of the officers report will be summarised and made available at the Committee, provided that the late representations are received no later than three working days before the Committee is held.

It is helpful if you give some reasons why you support or oppose the proposal. However those comments must be relevant and based on planning matters. These include :-

- the proposal's compliance with the adopted Development Plan;
- how the proposal fits in terms of design and use with the surroundings;
- the effect on sunlight and daylight on adjoining properties;
- the loss of privacy to adjoining properties;
- the effect on parking, traffic and road safety;
- noise and general disturbance to adjoining residents.

**Planning matters DO NOT INCLUDE**

- spoiling your view;
- rights to light;
- devaluing your property;
- covenants affecting properties;
- nuisance caused by building work;
- land ownership disputes;
- personal circumstances or character of the applicant;
- moral issues.

Anybody can comment. You do not need to have a direct interest in the application site or be an adjacent owner or occupier. You can support as well as object to a proposal. Remember that all comments received are open to public inspection and may be repeated in public documents.



- **HAVING YOUR SAY AT PLANNING COMMITTEE**

Most applications are determined under delegated powers by officers. However in certain instances, for example, major applications which depart from the Development Plan (and officers are recommending that permission be granted) or those where there are written representations which conflict with the officers recommendation, applications are considered by the Planning Committee. Their meetings are held normally every three weeks on a Thursday afternoon in the Council House and are open to the public.

Public speaking at the Committee is possible, although people making the same or similar points will be asked to choose someone to represent them or alternatively, you may ask one of your Ward Councillors to speak on your behalf.

If you have made written representations on a planning application (sent to the [Development Management Planning Control Team](#)) you will be notified when the Committee Schedule is compiled (normally 2 weeks before the date of the meeting). If you wish to register to speak at Planning Committee you must also contact the [Committee Governance Services](#) Officer on 024 7683 3166 by no later than 48 hours before the start of the Committee meeting. Failure to comply with this timescale will mean you will not be able to speak at Committee. You will then be contacted by the Council to confirm the arrangements 5 days before the meeting and will be supplied with a copy of the officers report. (Please remember that if your representation accords with the officers recommendation then the matter will be determined under delegated powers and you will be notified accordingly).

At the meeting the Chair will announce each item and the planning officer will report on the proposals and the main considerations displaying photos of the site and selected plans. The Chair will then invite speakers to address the meeting for a maximum of 3 minutes each (although the applicant or their representative may be allowed longer where two or more objectors speak). Any objectors will go first, followed by those in support and finally the applicant or their representative. Each public speaker has only the right to be heard once so it is important that you make your points in the time available. Representations should only be made on planning matters.

Councillors may ask the Planning Officer (or speaker on the issue of facts only) to clarify certain points raised before reaching their decision.

- **HOW ARE DECISIONS MADE**

Every decision will be made taking into account the following factors –

- whether the proposal complies with the development plan;
- the individual merits of the proposals;
- any relevant comments from consultees.

Your views are therefore only one aspect that is considered and may not override other factors. In law the decision must be made in accordance with the development plan unless material considerations indicate otherwise. Furthermore Government advice is that there

**Part 5.5 – Code of Good Planning Practice for Members and  
Employees Dealing with Planning Matters**

should be a general presumption in favour of development unless there are overriding planning objections to it.

- **AFTER THE DECISION**

If you have written to the City Council then you will be notified of the decision in writing which will set out the reason for refusal or conditions attached to any permission granted.

Once a decision is made only the person making the application has the right to appeal either against a refusal or any condition imposed on a permission. Neighbours and other interested parties cannot appeal against the decision.

If an appeal is made then an inspector nominated by the Planning Inspectorate will consider the matter. If you commented on the original planning application then you will be informed of the appeal and be invited to make representations to the Planning Inspectorate. Any comments you made on the original application will have already been forwarded to the Inspector. Further information about the appeal process is available from the Planning Advisory Desk.

- **COMMENCEMENT OF WORKS**

Once the development has commenced or completed if you believe it is not in accordance with the approved plans or conditions then please telephone or visit the Planning Advisory Desk or call the Planning Enforcement Team (Direct Dial [024] 7683 1226) and an officer will check the situation. This may require a visit to the site. Your request for us to investigate will be kept confidential and we will get back to you advising you of the action the Council propose to take.

- **OMBUDSMAN**

If you feel the proper procedures have not been followed by the City Council in making the decision then you can ask the Local Government Commissioner (the Ombudsman) to investigate whether maladministration has occurred. The Ombudsman however cannot consider the planning merits of the proposal. Further details about the Ombudsman are also available from the Planning Advisory Desk.

- **FINALLY**

We are here to help you. You can inspect the application and any relevant policy documents at the Planning Advisory Desk and if you do not understand any aspect of the proposals then please ask the reception staff or talk to the Case Officer. Our address and opening times are given on the covering letter.

Note – Any advice given in this leaflet is not intended to be an authoritative statement of the law. It is intended for guidance only.