Development and Planning Applications Committee Chair's Procedure

Last updated 13/08/23
Next review 13/11/23

Agenda Publication
The agenda will be published on Merton.gov.uk a minimum of seven clear working days in advance of the meeting and will confirm: the list of agenda items due to be considered at the meeting; all accompanying papers; and plans for those items. Committee members receive papers ten calendar days in advance of the meeting.

The Committee cycle:
Below lists the milestones in a standard committee month. These align to the committee dates mapper.

- Forward planning meetings & 1:1s
- Notification to Chair & Vice Chair of potential applications
- Chair & Vice Chair with officers
- Chair's email to committee
- Draft agenda published internally
- Papers available for sign off
- Papers delivered
- Pack published
- Potential site visit
- Deadline for applicants to register attendees
- Technical briefing
- Applicant panel details circulated to committee. Committee asked to flag conflicts of interest with Chair and Monitoring Officer
- Deadline for comments and questions by committee and any known conflicts of interest registration (12pm)
- Deadline for comments on BPAC papers electronically
- Last date for speakers to register (by 12pm)
- Inform public speakers
- Mod sheet Planning
- Mod sheet BPAC
- Washup
- Conditions and decision notice drafted for Chair's review
- Minutes written up and circulated to Chair review and sign off
- Minutes signed off by Chair and returned to officers
- Actions, conditions, risks and lessons logged

Planning applications

The committee has dual functions over policy and applications. The following relate to planning applications.

Agenda setting

The Chair in consultation with Vice Chair and Head of Planning and Development and Head of Development Policy and officers will decide on the agenda and forward plan for the committee.

Speakers List

Once the agenda has been published, the speakers list will be open for registration. All speakers must register in advance by contacting the Planning Department no later than 12 noon three days before the meeting by phone (020-8545-3445/3448) or e-mail (planning@merton.gov.uk). Where this falls on a weekend the deadline will be the previous Friday. The Chair will review requests to speak based on qualifications and considerations in Table 1.0.

Following the Chair's review, officers will notify residents and the Committee of the decision as to who may speak at the committee. This should be no later than 12pm on the day before the committee.

Table 1.0: Qualifications for speaking at Committee

Type	Max number	Time to speak	Qualifications	Considerations for allocation of speaking slots
Resident supporters or objectors	Two	Three minutes each. Max six minutes collectively.	• Reside in the London Borough of Merton • Submitted a written representation to the planning application in question • If selected, speaking slot is not transferable	• =<6 Proximity to the red line boundary of the development • Can provide the committee with new insight into the impact development would bring • Where an application crosses local authority boundaries one slot is always reserved for a Merton resident • =>7 selected by chance through computer programme • Reserves can be drawn using same method

Type	Max number	Time to speak	Qualifications	Considerations for allocation of speaking slots
Statutory stakeholders	N/A	Max six minutes	• A statutory stakeholder consultee on a planning application e.g. utilities	• Can provide the committee with new insight into the impact development would bring
Ward Councillors	Three	Two minutes each. Max six minutes collectively.	• Councillor in the ward of the development	• Where an application borders two wards or more at the discretion of the Chair ward speakers can be drawn from more than one ward
Members of Parliament	1	Two minutes	• Elected Member of Parliament for the constituency the application is in.	Ibid...
Cabinet member	1	Two minutes	• Cabinet member for an area of material consideration for the purposes of identifying factual information within a planning application	- Where pre-existing council policy exists or development is of strategic importance or pre-engagement with the committee at technical briefing and agenda setting meetings identify gaps in understanding to facilitate most appropriate cabinet member to support committees understanding
Agent and Applicant	N/A	Three minutes unless opposing speakers then max six minutes	• Part of the team bringing the application to council for approval • Arranged between speakers as to how this time is split.	- Agent and Applicant are expected to address questions raised by previous opposing speakers and make arguments using non-technical language.

Officer presentations

Officers will present for a maximum of 30 minutes, and should set the scene for the application, addressing both the benefits and the risks.

Committee papers
Papers will have clear summaries to the following strategic priorities: Contribution to ecology, carbon reduction, affordable housing and housing delivery, employment and economy, smart cities agenda.

Presentations

All presentations from residents and applicants shall be verbal. The distribution of printed documents   will not be permitted. Entry and exit is via the side of the chamber as directed.

Speakers can address the committee remotely or within the Council Chamber. If within the Council Chamber, a traffic light and timer system will be operated and will show on screen. Remote speakers will be verbally advised when they have one minute remaining.

As part of the joining arrangements officers will make speakers aware they do not have legal privilege when speaking before the Committee. It's important any statements are supported by fact and reasoned opinion.

Tailoring proceedings
The Chair retains discretion to tailor proceedings to facilitate appropriate information for the committee

Ability to clarify comments made by applicant or speaker or to seek expert third-party advice

To make informed decisions Committee members may ask any of the speaker's questions for the purpose of seeking factual information to better inform decision making. Such questions will be subject to the direction of the Chair if necessary. They are not a means to provide speakers with additional time to make speeches.

If information cannot be verified through publicly available sources there may be a need to secure additional expert witness statements to support deliberations.

Submission of additional information before the meeting

Any additional information not requested by officers relating to an item on the agenda should be sent to the Planning Department before 12 noon three days before the meeting by email (planning@merton.gov.uk). Where this falls on a weekend the deadline will be the previous Friday. Only in exceptional circumstances will Information sent directly to committee members be considered in the decision-making process.

Briefing
Committee members are invited to a technical briefing from planning officers prior to the Committee meeting. This meeting is an opportunity to clarify any technical issues

and identify what further information the committee requires for decision ready proceedings. The questions and answers will form part of the modification sheet.

The Modifications Sheet
No later than 12pm the day of the meeting, a modifications sheet will be published on the Council's website and circulated to committee members via email. This will include responses to written questions, material discussion in the technical briefing or changes to applications and may be referred to during officer presentations at the meeting.

Site visits

In person tours of a site are valuable tools to gain a greater understanding of its location, physical characteristics and relationship to neighboring properties or land use. The information gained can aid the Committee in bringing to life the words and observations in officers reports.

All site visits should be coordinated and provide value to the Committee. They will be organised through democratic services and only on the authorisation of the Chair. Site visits are not open for general attendance. For the purpose of factual record, attendance at a site visit will be recorded by the lead officer including the locations visited.

Applicants and agents may accompany committee members on site visits. Care must be taken not to discuss the merits or otherwise of the application. The visits are for fact finding purposes alone.

Questions by email
Committee members are also able to submit written questions to planning officers until two days prior to the Committee meeting. Responses will be included in the modification sheet. Priority will be given to members with follow-up questions who have attended the technical briefing and questions not already addressed in that briefing.

Seating at the meeting and conduct

Seating

Observers seating at the rear of the chamber is on a first come first served basis. For major applications, a ticketing system maybe in force.

If an application crosses local authority boundaries and Merton has decision making powers delegated to it the allocation of seats will be divided in equal proportion between the local authority residents.

Those speaking at committee will be seated in front of the observation gallery at a microphone.

Behaviours that are disruptive to the good running of the meeting will result in individual(s) attending in person or online being asked to leave. To ensure the safeguarding of the committee and public the meeting may need to be adjourned.

Agenda item order

Planning items will be taken in the order decided by the Chair and announced at the start of the meeting. This may differ from the Chair's standing order in Appendix 1. It is not possible to give the exact time items will be heard. Whilst the Committee will endeavor to consider all items on the agenda, if it is not possible to hear an item, every effort will be made to take it at the next meeting of the Committee.

Process for Consideration of Items

Items will be considered in the following order:

1. Introduction to the Application by Planning Officer
2. Registered Speakers in the order listed above. If there are no speakers, proceed directly to step 4
3. Points of clarification or response from Planning Officers following speeches
4. Questions from the Committee to Planning Officers and at the discretion of the Chair to applicants, Councillors and residents.
5. Comments or observations from Committee members on the application. This may include suggestions for conditions.
6. Vote on the application in the following order: Voting against the recommendation, not voting in favour of the recommendation; voting in favour of the recommendation

Members must be present for the entirety of an item to be able to vote on it. The Chair and officers will check which members are present before starting each item.

Conditions

Before a vote is taken the Committee may wish to place additional or remove conditions from an application to enhance benefits for the community or compel the applicant to conduct development in a prescribed way. These should be agreed with the majority consensus of the committee formally secured at the discretion of the Chair and will then form part of the vote on the recommendation.

Voting

The Chair will call a vote on the recommendation within the officer report noting any changes to conditions. These conditions will be included in a separate log. An officer or the Chair will verbally announce the result of the vote. The numbers of votes will be recorded in the minutes. Note: Committee members retain the right to vote remotely.

If a vote on the recommendation falls, a further vote will be required to agree a planning basis for the refusal or granting of an application in contradiction to Officer recommendation. If the committee is unable to agree a reason the committee will vote again on the original recommendation.

Following the meeting Planning Officers will gain agreement in writing from the Chair of the conditions to be placed on the item so as to ensure the committee's decision is translated accurately into action. Appropriate amendments maybe made with the agreement of the Chair to the decision notice as required to provide an informative and accurate response referencing appropriate policies

The Chair can vote on applications, entitled to a casting vote, or call a second vote in the event of the committee is unable to come to a clear decision.

Supporting effective decision making

Deliberating on planning applications is a mentally demanding task. To support effective decision making the Chair will propose regular breaks and is able to close the meeting at any stage even if all the agenda items have not been heard. The Chairs standing instructions are for a break after 1.5 - 2 hours and for business to be completed 4 hours from the commencement of the meeting.

Interests

Declarations of Interests

Members need to have regard to the items published with the agenda and, where necessary to declare at this meeting any Disclosable Pecuniary Interest (as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012) in any matter to be considered at the meeting. If a pecuniary interest is declared, they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest, including other registrable interests or other matters which may give rise to a perception of bias, they should declare this, withdraw and be replaced by a substitute for the consideration of the item. Members should have regard to the Code of conduct for members and for further advice speak with the Council's Monitoring Officer (John.Scarborough@merton.gov.uk) or deputy (Fabiola.hickson@merton.gov.uk).

FOR ANY QUERIES ON THIS INFORMATION AND OTHER COMMITTEE PROCEDURES please contact Democratic Services.

Phone – 020 8545 3356 e-mail – democratic.services@merton.gov.uk

Call-in
Appendix two notes the call-in process for planning applications. As granted by full council the Chair of the committee will publish a process including the criteria for call-in.

All call-ins must have a planning reason not addressed through condition or legal agreement, made between the start and end dates of the public consultation period, relate to the latest application being consulted on, and should be accompanied by a declaration of interest. Call-ins are not a tool for casework management. Councillors will be expected to evidence how other

options have been explored other than call-in. Call-ins can be made on the discharge of conditions.

Summary of call in process

(A) Call-ins start with an informal conversation with the Chair of the committee so a shared understanding of the issues of the case can be formed.

(B) If a call-in is to proceed a form will be completed including details of the rationale and steps taken by the Councillor to address the matter outside of call-in. The form must be submitted during the public consultation stage.

(C) The submitted form is validated. Valid forms are reviewed at the Chair – Vice Chair agenda setting meeting. The substance of the arguments for call-in is reviewed and this may require the Councillor to attend the meeting to answer questions.

(D) The outcome is reported at the next meeting of the Committee, or item of business included in the agenda.

(E) Call-ins may be heard by committee or through mediation. If mediation fails cases can return to the committee.

(F) If an appropriately validated call-in request is not supported, Councillors can request the committee take the business. This may be granted with the inclusion of the call-in decision report and copy of the submission form.

Call-ins follow same process in committee as other applications with one exception – Planning Committee members are unable to preside over an application they may call-in or have advised to be called-in. Committee members who advise residents on matters of call-in must take care and declare their interest to the Chair and Head of development at the earliest opportunity to avoid accusations access is used to secure outcome.

Records for the call-in process will inform further iterations to secure balanced use.

Development

The following relate to the committees development policy function

Dedicating time

Every quarter at least 2 hours of the committees time should be planned for development work. Over a year this is the equivalent of four meetings of the previous Borough Plan Advisory Committee.

Forward agenda

The committee will meet once a year to map out recommendations for commissions. These commission suggestions will be sent to the Cabinet member for Housing and Development and other cabinet members as relevant. Those commissions supported will form part of the committees forward plan and map out accordingly.

Products to created

(A) Call-in form; (B) Validation guidance; (C) Updated decision log; (D) Chair and Vice Chair meeting process guide (E) Updated design of committee paper for (i) Call-ins (ii) standard (F) Risk log

Appendix 1: Standard order of business

The items for consideration will normally be taken in the order below. In the case of a tie, the application which has received the highest number of representations will be taken first:

- Housing (Organised by number of units)
  - Applications with credible social housing
  - Proportion of significant proposed affordable housing
  - Private sale
  - HMOs
  - Alterations, extensions to existing
  - Other housing applications

- Commercial (Organised by estimated number of jobs created or maintained, or the capital cost of the development)
  - Square footage
  - High jobs/capital cost
  - Low number jobs/capital cost

- Parks, allotments, street scene
- Trees Protection Orders
- Advertising boards
- Reports from third party
- Reports as part of conditions

No priority will be given to called in items. They will be taken in the priority listed above.

Appendix 2: Call in process

Valid planning reason not provided

Merton Councillor contacts Planning Chair for informal discussion of concerns → Call-in form submitted with planning reason → Call-in form validated

Valid planning reason provided

Call in sub-committee. Chair or in absence Vice Chair in consultation with head of planning meets to consider the councillor's request. This should ideally be an extension to the monthly Chair and Vice Chair agenda setting meeting. → Call-in supported

Directive response

Facilitative response

Call in not supported

Published to Planning Committee

Example: Councillor B has concerns about an application rejected by officers that would have provided measures to cut carbon. Officers have made a professional judgement and mediation is not appropriate. The matter is called direct to committee who set future case law for Council delegated decision making.

Planning Committee take item of business → Final decision planning committee

Referred to Committee

Mutually not addressed

Mutually addressed → Outcome published in next committee papers

Example: Councillor A is concerned the building of a new school playground is not meeting the conditions the application was approved on. Through mediation the councillor and applicant agree on steps for the condition to be discharged. Saving committee time for new applications.

Decision implemented

No request or request for review not supported

Councillor decision to agree with recommendation or insist on call-in

Chair receives confirmation of call in