

## Supplementary Report to Item 4

By: John Davies, Chairman of the Planning Applications Committee  
Sharon Thompson, Head of Planning Applications Group

To: Selection and Member Services Committee – 1 March 2017

Subject: Training for the Planning Applications Committee

Classification: Unrestricted

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### 1. Introduction

(1) The Planning Applications Committee considered a report on 8 February 2017 which reviewed the training provided during the lifetime of the present County Council. This report appears at **Appendix 1**.

(2) The determination of planning decisions at committee is one of the most visible ways in which a local authority makes decisions and is often seen as the public face of decision making. It is therefore important that committee members are well informed so that planning decisions are lawful and based upon sound judgement and justifiable planning reasons. Planning decisions are challengeable via a right of appeal to the Planning Inspectorate, the Ombudsman or Judicial Review in the High Court. Such challenges whether successful or not bring considerable financial and reputational costs.

(3) The Committee meeting was attended by Paul Wickenden, the Democratic Services Manager (Members) who advised that the views of my Committee would be best conveyed to the Council as a supplement to the recommendations made to Selection and Member Services Committee by the Member Development Steering Group.

### 2. The views expressed by the Planning Applications Committee Members

(1) Committee Members commented favourably on the overall programme and supported me in my view that it is important that Members are trained by the County Council to ensure that a consistent high standard is maintained relevant to the needs of the County Council as planning authority. Members agreed that full training should be mandatory for all Members of the Committee and nominated substitutes, even if they had received training as Borough/District Councillors, and suggested that:

(a) the initial Induction was a very valuable introduction to planning and could usefully be held over a period of 1.5 days instead of the concentrated training that had taken place on a single day in 2013;

(b) the holding of a full day for Committee business was valuable and enabled a regular slot for ongoing training or site visits in the afternoon of Committee if required;

(c) a site tour of permitted developments should take place early in the lifetime of the new Council to understand the challenges in coming to a decision and to view and learn from the outcome of previously determined applications;

(d) in addition to topics previously covered, the programme should include sessions emphasising the importance of training on Transport, Public Rights of Way; Probity (Including predetermination and bias); Conditions and Informatives; “Grey areas and Judgement issues” and encouragement for self-tuition on planning matters;

(e) contributions from Statutory Consultees such as the Environment Agency and Sport England, the KCC Flood Risk Project Officer, the County Archaeological Officer, and the KCC Travel Plan Officer would aid understanding of their roles;

(f) visits to operational mineral and waste sites are particularly valuable in undertaking their roles to appreciate the materials excavated and the complexity of waste management proposals;

(g) the need for planning training should be included in the Members’ Personal Development Plans and set out in the Constitution;

(f) early advance notice of training should be sent to nominated substitutes and, if appropriate, all Members of the Council;

### 3. Conclusions

(1) The overall view of the Committee was very positive about the training received. The majority of the comments referred to relate to matters which could be left to the Committee itself following the Local Government elections in May 2017.

(2) The Committee did, however, comment on what it considers to be an omission in the Constitution, where there is currently no provision for training to be mandatory for everyone who serves on the Committee. Curiously, it is mandatory for nominated substitutes, and the Standards Committee Advice Note 4 “*To Members on the application of the Code of Member Conduct to Development Control*” (**Appendix 2**) also sets out that everyone who acts as a voting Member on the Committee should have received basic training in their duties before taking up their place and then attend all the training sessions on policy and practice afterwards.

(3) Some Members of my Committee are “Twin Hatters” who also sit on Borough/District Planning Committees. It is interesting that they commented that they had initially been sceptical of the need to receive training from both authorities, but that the remits of the two Committees they sat on were so different that they were grateful to have received training from both and that the County training had aided their ability on Borough/District Council committees.

(4) It should also be noted that this view also applied to probity questions. This concurs with my view that it is essential that the County Council is able to verify that all its Members have received training in probity and that it is able to take responsibility for its content.

#### **4. Recommendation**

(1) The Committee is asked to note this report to inform the development of Member training.

## Review of Training to Planning Applications Committee

A report by Head of Planning Applications Group to Planning Applications Committee on 8 February 2017.

Review of training to Planning Applications Committee to aid development of future training programme

**Recommendation:** The Committee's views be invited on training received and recommendations for the development of a training programme for future members and substitutes of the Planning Applications Committee following the County Council elections in May 2017.

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### Background

- (4) Planning is a positive and proactive role that facilitates the delivery of a number of Government and Corporate objectives. It plays a key role in the shaping of our communities and landscapes, delivering sustainable development that balances competing social, economic and environmental needs. As a quasi-judicial process, the determination of planning applications needs to comply with planning law, regulation and guidance. Planning decisions are challengeable via a right of appeal to the Planning Inspectorate, the ombudsman or judicial review in the High Court. Such challenges whether successful or not bring considerable financial and reputational costs.
- (5) The determination of planning decisions at committee is one of the most visible ways in which a local authority makes decisions and is often seen as the public face of decision making. It is therefore important that the committee members are well informed so that planning decisions are lawful and based upon sound judgement and justifiable planning reasons.
- (6) Training for committee members is not mandatory, although it is considered best practice and is compulsory in many local authorities. The Local Government Association recommends that due to the complexity of the planning system and the frequent changes to it, that planning committee members should receive appropriate and ongoing training. In the case of Kent, training is supported in the Constitution and the Kent County Council Standards Committee Advice Note 4, 2009. There is an expectation that Members should receive training and development to assist them in fulfilling their roles and responsibilities.
- (7) The practice of this Committee has been to ensure all Members and potential substitutes are trained prior to sitting on the Committee, with a general induction, supported by ongoing training. The induction session post the Council election in May 2013 took the form of a day at Shorne Country Park. It covered:
  - Introduction to Planning;
  - The Role of the Committee;

- Material Considerations
  - Key Topics – AONBs, Green Belt, Nature Conservation, Climate Change and Renewables;
  - Planning Conditions and Legal Agreements;
  - Mineral and Waste Local Plan
  - Probity
  - Summary
- (8) Subsequent training has usually taken place on the afternoon of the Committee. Topics have reflected Member's requests or arisen due to changes in planning law, guidance or practice that were relevant to decision making. In addition, the Committee has had an annual visit to a number of sites post construction. This has proven to be a worthy exercise to assess the quality of the both the decision making and the development. It also provided an opportunity to assess how successfully concerns that were raised during the planning process were addressed and any lessons that could be learnt for future developments. **Appendix 1** sets out the training that has taken place since 2013.
- (9) Work will shortly commence on preparing a training programme for the new Committee Members post the Council elections in May 2017. In preparing the programme, I would particularly value the views of the current Committee Members on the training they have received, the breadth and adequacy of topics, any omissions, delivery style and the effectiveness of the training in helping you deliver the responsibilities of the Planning Applications Committee.

**Recommendation**

- (10) I RECOMMEND that the Committee's views be invited on training received and recommendations for the development of a training programme for future members and substitutes of the Planning Applications Committee following the County Council elections in May 2017.

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<p>Background Documents:</p> <p>Kent CC Standards Committee Advice Note 4 2009</p> <p>Kent CC Constitution</p>
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**APPENDIX 1**  
**(to Item B1 Planning Applications Committee Feb 2017)**

**Training undertaken by Planning Applications Committee 2013 – 2017**

Date	Training	Venue
June 2013	Induction <ul style="list-style-type: none"> <li>• Introduction to Planning;</li> <li>• The Role of the Committee;</li> <li>• Material Considerations</li> <li>• Key Topics – AONBs, Green Belt, Nature Conservation, Climate Change and Renewables;</li> <li>• Planning Conditions and Legal Agreements;</li> <li>• Appeals and Enforcement</li> <li>• Mineral and Waste Local Plan</li> <li>• Probity</li> <li>• Summary</li> </ul>	Shorne Wood Country Park
July 2013	Mineral and Waste Planning Issues Highway Matters Kent Minerals and Waste Local Plan	County Hall
October 2013	National Domestic Extremism – Beyond Lawful Protest	County Hall
November 2013	Government advice on Handling Proposals for Onshore Oil and Gas	County Hall
February 2014	Planning and Biodiversity	County Hall
October 2014	Training Day <ul style="list-style-type: none"> <li>• Probity in Planning</li> <li>• Role of Highways &amp; Transportation in Development Management</li> <li>• Planning – A positive and Proactive Role</li> <li>• Archaeology</li> </ul>	Trosley Country Park
May 2015	Kent Minerals and Waste Local Plan Update Ebbsfleet Garden City	County Hall
June 2015	Site Tour of Permitted Developments	Schools in Swale Area and Waste Activities in Ridham Dock, including MVV facility
July 2015	Environmental Impact Assessments	County Hall
October 2015	Site Visit to permitted aggregate quarry	Hermitage Quarry, Maidstone
2015	School Design and Renewables	County Hall
November 2015	Probity in Planning : Kelton v. Wiltshire Judgement	County Hall
April 2016	Site Tour of permitted Basic Need School Developments	Tunstall, Thistle Hill, Sheppey, Holborough and Wouldham
May 2016	Kent Minerals and Waste Local Plan update	County Hall

**KENT COUNTY COUNCIL  
STANDARDS COMMITTEE**

**Advice Note 4**

(Approved by the Standards Committee on 27 April 2009)

**ADVICE TO MEMBERS ON THE APPLICATION OF  
THE CODE OF MEMBER CONDUCT TO DEVELOPMENT CONTROL**

1. This note gives advice to Members who:
  - are members of the Planning Applications Committee
  - sit in on a meeting of the Planning Applications Committee as a substitute Member
  
2. The provisions of the Code of Member Conduct regarding conduct, the registration and declaration of interests, and the acceptance and registration of gifts and hospitality, apply to the proceedings of the Planning Applications Committee and other discussions in which Members may become involved on planning applications and other development control proposals.
  
3. The Local Government Association, supported by the Standards Board for England, has issued a short but useful guidance note *Positive engagement - a guide for planning councilors (updated version)*. Separately the Standards Board for England has also issued a more detailed and helpful occasional note *Predisposition, Predetermination or Bias, and the Code*. Copies of these documents are obtainable from Democratic Services.
  
4. Where this note refers to an application, it applies also to any other decision coming before the Council as a local planning authority that is not the responsibility of the Leader and Cabinet.

**Interests**

5. If you have a personal interest in an application make sure you declare this at any meeting. It would be prudent also to notify the Monitoring Officer in writing so that the interest can be publicly recorded in the Register of Members' Interests.
  
6. If the interest is a prejudicial one you should take no part in any discussion on the application, either inside or outside committee meetings. If you are the Local Member, you should arrange for a colleague representing a nearby division to represent your constituents.

## **Executive and Lead Members**

7. If you are a Cabinet Member or a Lead Member (including Chairman of the Schools or Highways Advisory Boards), you should not take part as a voting Member in a debate by the Planning Applications Committee on an application by the Council, e.g. for a highway or school scheme. You may, with the Chairman's consent, speak to other Members outside the Committee meeting or at the meeting itself, but you should always remind the Member(s) of your responsibilities and position so that they and the public are aware of these when considering what you have to say. Take care you are not seen to be attempting to exercise undue influence on the other Member(s) through your position in the Council or party group.

## **Planning Applications Committee Members**

### *Training*

8. Before taking up a position as a voting member of the Planning Applications Committee, you should receive basic training in your duties. This will normally take the form of a discussion of this advice note with an officer nominated by the Monitoring Officer, as well as a discussion with a senior planning officer.

9. Once appointed, you should take part in all training sessions on planning law, policy and practice organised for members of the Committee. If you cannot attend, you should request a personal briefing from the Planning Officer.

### *Information*

10. You should approach all decisions on applications with an open mind and ensure you are as well informed as possible by:

- attending site visits or inspections on applications agreed by the Committee wherever possible
- ensuring you always read the Planning Officer's report thoroughly and come to the meeting prepared to be persuaded to take a different point of view
- not voting if you have not been present to hear the entire debate, including public comments and the Planning Officers' introduction.

### *Dual Membership*

11. You may take part as a voting member in the consideration of an application by the Planning Applications Committee if you also serve on an advisory board, district or a parish council which has been consulted on or is otherwise involved with the application. Dual membership does not of itself create a prejudicial interest that requires you to leave the room. It is, however, necessary for you to be able to demonstrate, if challenged, that you came to the debate with an open mind, without having previously formed a fixed or predetermined view on the issue and that you have considered all the relevant facts and arguments.

12. You should consider carefully what you say at meetings of other boards or councils whether you attend as a member of that board or council or as a KCC



Member. You should declare at those meetings that if you come to consider the matter as a voting member of the Planning Applications Committee, you will consider the matter afresh, taking into account all the information and views you will then have before you, including those expressed at these boards or councils' meetings.

13. At the Planning Applications Committee meeting you should declare a personal (but not necessarily prejudicial) interest as a member of the board or parish/district council. You should say if you attended or participated in the board or parish/district council meeting but make it clear that you have not reached a final conclusion, but instead are considering the matter at Planning Applications Committee meeting afresh and not bound by board or parish/district council's views.

14. If you do not feel able to make such a declaration you should regard yourself as having a prejudicial interest. You should declare that interest and leave the meeting before consideration of that item. Alternatively, you may wish to arrange to be substituted at that meeting and speak instead as a Local Member (assuming the matter affects your division). In that case, you must make clear when you speak that you have done this and why.

15. If you are associated with an external body that is the applicant (or a major beneficiary of the proposals, e.g. a school governing body for new school buildings) you should not participate as a voting member but declare that interest. With the Chairman's consent you may still speak on the same basis as a Local Member. If you have voting rights, you should ensure that your abstention is recorded in the minutes.

#### *Lobbying by local residents, consultees and objectors*

16. In any discussions with local residents, objectors or consultees you should be careful not to say how you might vote or express any opinion on the merits prior to your formal consideration of the matter at the Committee meeting. Explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality to express a firm point of view or an intention to vote one way or another.

17. If you decide to argue vigorously for a particular point of view in relation to an application on behalf of some or all of your constituents, or to become a member of a lobbying group for or against a specific proposal, you should not exercise your rights at the meeting of the Planning Applications Committee to vote or move or second any motion or amendment. You should inform the Chairman of this before the meeting begins and declare that intention at the beginning of the debate on the item.

18. If you are a member of a lobby, campaign or other group or association that is actively expressing a view on the application or other matter before the Committee, you are likely to have a prejudicial interest and should follow the advice in paragraph 14 above. More detailed advice is available in Advice Note 1 on dual-hatting and membership of lobby groups.

### *Lobbying by Applicants or Developers*

19. You should inform the Monitoring Officer in writing if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).
20. You should refer applicants/developers who approach you for planning or procedural advice to officers wherever practicable and report any significant contact to the Planning Officer.
21. You should not take part in any meeting, presentation or site visit organised by applicants or developers unless a Planning Officer is present and can make a written file record of the discussion.
22. At any such presentation or discussion:
  - ask relevant questions for the purposes of clarifying your understanding of the proposals
  - remember that the presentation is not part of the formal process of debate and decision by the Planning Applications Committee
  - be careful not to express any strong view or state how you or other Members might vote.
23. If you decide to inspect the site of an application by yourself make sure you stay on the public highway or public land. If you are spoken to by an employee or representative of the landowner or a local resident, explain who you are and why you are looking at the site but follow the preceding advice about not expressing an opinion.

### **Local Members**

24. In discussion with your constituents or others be careful not to give the impression that the Planning Applications Committee will approve or refuse the application or that it will do anything other than reach a decision in accordance with planning law, policy and good practice.
25. If you are a member of the Committee and also the Local Member, remember that your overriding duty is to the whole community not just to the people in your ward and take account of the need to make decisions impartially. If you do not feel able to do this but want to argue the case for your constituents, do not take part in the debate as a voting member but make it clear that you are abstaining on that issue and why. You may vote on other issues raised in the meeting, or alternatively, you may wish to ask your political group to arrange for a substitute for the entire meeting so you can attend and speak on the specific item as the Local Member.
26. At a meeting where an application will be considered in which you will participate as a Local Member, you should not normally agree to serve as a substitute member.

27. If you sit on the applicant/benefiting body (e.g. a school governing body) but are not a member of the Planning Applications Committee, make sure if you speak to any member of the Committee about the application that they know of your membership and interest. Remember that if you speak at the Committee meeting, you have to declare your interest before speaking.