

<b>Meeting of:</b>	<b>DEVELOPMENT CONTROL COMMITTEE</b>
<b>Date of Meeting:</b>	<b>15 JUNE 2023</b>
<b>Report Title:</b>	<b>LISTED BUILDING CONSENT DELEGATION</b>
<b>Report Owner / Corporate Director:</b>	<b>CORPORATE DIRECTOR COMMUNITIES</b>
<b>Responsible Officer:</b>	<b>CLAIRE HAMM TEAM LEADER CONSERVATION AND DESIGN</b>
<b>Policy Framework and Procedure Rules:</b>	In order to proceed with this offer of Listed Building Consent Delegation amendments to the Council's scheme of delegation will be required via this Committee.
<b>Executive Summary:</b>	<b>Further to the award of Listed Building Consent Delegation by Cadw from 1 February 2023, a further report was presented to Council on 8 February 2023 and the necessary changes to the constitution were agreed. Amendments required to the current scheme of officer delegation which has been adopted by the Development Control Committee as part of the Planning Code of Practice are contained in this report.</b>

## **1. Purpose of Report**

- 1.1 The purpose of this report is to approve the changes to the Planning Code of Practice (PCP) necessary for Council Officers to proceed with the determination of applications for listed building consent for Grade II buildings without the need for referral to Welsh Ministers.

## **2. Background**

- 2.1 Following agreement by the Development Control Committee on 3 March 2022, Bridgend County Borough Council's Conservation and Design Team applied to Cadw for Listed Building Consent delegation to allow the Council to determine all grade II listed building consent applications made to the Council without the need to refer any such applications to CADW (with the exception of applications for total demolition).
- 2.2 At a subsequent meeting of Development Control Committee on 9 January 2023 Members of the Development Control Committee were advised that notification had been received from Cadw that it was minded to grant Listed Building Consent Delegation subject to acceptance of a number of requirements. The requirements

are set out in full in the report to the Development Control Committee meeting on 9 January, a copy of which is attached as **Appendix A**. The report included a recommendation that the report be referred to Council for agreement to amend the Constitution as described in paragraph 4.4 of the report along with any other necessary amendments.

- 2.3 On 17 January 2023 the Council received confirmation from Cadw of its intention to award delegation from 1 February 2023 in the form of a signed Direction, a copy of which is attached as Appendix B (“the Direction”).
- 2.4 A further report was presented to Council on 8 February 2023 and the necessary changes to the constitution were agreed. As part of that report Council were informed that any amendments required to the current scheme of officer delegation which has been adopted by the Development Control Committee as part of the PCP would be reported to the Development Control Committee for their decision.

### **3. Current situation / proposal**

- 3.1 The existing Scheme of officer delegation is in the PCP (attached as **Appendix C**) and includes powers for Officers, where appropriate, to determine applications for Listed Building Consent subject to the requirement to notify Welsh Ministers in line with Section 13 of the Act. The PCC will require a change to allow Officers to determine applications for Listed Building Consent for Grade II buildings without the need for referral to Welsh Ministers, on any application for Listed Building Consent, if officers have received and adhered to the advice of the Senior Conservation and Design Officer, Moira Lucas.
- 3.2 Section 5 of the Direction in **Appendix B** identifies situations where Section 13 of the 1990 Act will continue to apply to applications submitted to Bridgend County Borough Council for listed building consent and the scheme of officer delegation needs to refer to these exceptions.
- 3.3 The suggested amendment would be to Schedule 1 of the PCP. A new heading should be added to Schedule 1 as follows:- “Listed Building Consent Delegation”. Under that heading the following paragraphs should be inserted:-
- “ . To determine applications for Listed Building Consent without having to comply with Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”) for applications for listed building consent for the carrying out of work affecting the exterior or interior of a grade II (unstarred) listed building but with the following restrictions-
- Section 13 of the 1990 Act will continue to apply to applications submitted to the Council for listed building consent:
- i. which involve demolition.

- ii. which the Council is required to submit to the Welsh Ministers in accordance with regulation 9 of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (S.I. 2012/793);
- iii. relating to works affecting the exterior of grade II (unstarred) listed buildings, where the Council wishes to grant consent contrary to the advice or without receiving advice from Ms Moira Lucas the Named Building Conservation Area Officer; or
- iv. which affects either the interior or exterior of a Grade I or II (starred) listed building.

#### **4. Equality implications (including Socio-economic Duty and Welsh Language)**

4.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

#### **5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives**

5.1 Listed Building Consent Delegation forms part of the Statutory Planning Service and will be progressed in line with the 7 Well-being goals and the 5 ways of working as identified in the Act.

5.2 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015:-**

**Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

#### **6. Climate Change Implications**

6.1 The repair and reuse of historic buildings and timely determination of listed building consent applications will make a positive contribution towards helping to help protect and sustain the environment over the long term .

#### **7. Safeguarding and Corporate Parent Implications**

7.1 Listed Building Consent Delegation and the proposed amendment to the PCP contained in this report and will have no impact on the Council's duty contained in its safeguarding policy.

## **8. Financial Implications**

- 8.1 Funding is in place to support the Senior Conservation and Design Officer, the named officer, within the Communities Directorate until December 2023. Funding from within existing Directorate budgets will be sought to maintain the dedicated staff arrangements beyond this date to deal with listing building consent applications, their subsequent monitoring of proposals on site and enforcement. There is also an intention to submit a budget pressure bid as part of the 2024-25 Medium Term Financial Strategy to support this function.

## **9. Recommendation(s)**

- 9.1 It is recommended that Development Control Committee :-

Approve the proposed changes outlined in para 3.3 of this report to the Planning Code of Practice .

## **Background documents**

None.

**BRIDGEND COUNTY BOROUGH COUNCIL****REPORT TO DEVELOPMENT CONTROL COMMITTEE****5 JANUARY 2023****REPORT OF THE CORPORATE DIRECTOR COMMUNITIES****LISTED BUILDING CONSENT DELEGATION****1. Purpose of report**

- 1.1 The purpose of this report is to update Members of the Development Control Committee on Bridgend County Borough Council's application for Listed Building Consent Delegation in terms of feedback from Cadw and next steps.

**2. Connection to corporate well-being objectives / other corporate priorities**

- 2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015**:-

**Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

- 2.2 The Council has statutory duties in relation to the determination of Listed Building Consent applications as part of its Planning Service.

**3. Background**

- 3.1 Members are reminded that under Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 local planning authorities are required to notify Welsh Ministers (via Cadw) where they are minded to grant listed building consent (LBC). However, wherever possible, Welsh Ministers are keen for LBC decisions to be taken at a local level and they are able to amend the requirement to notify Cadw. For example Welsh Ministers are able to direct that certain categories of applications for LBC need not be notified to them by a local planning authority. There is currently a general direction in place removing the requirement to notify Cadw of an application for LBC for work affecting the interior only of a grade II (unstarred) listed building.
- 3.2 Following agreement by the Development Control Committee on 3 March 2022, Bridgend County Borough Council's Conservation and Design Team applied to Cadw to extend these arrangements to include all grade II listed buildings (with the

exception of applications for total demolition). In shorthand, we call these extended arrangements Listed Building Consent delegation.

#### **4. Current situation/proposal**

- 4.1 On 15 December 2022 Cadw wrote to Officers to confirm that it is minded to award delegation to the named Officer as specified in the application ( Senior Conservation and Design Officer Mrs Moira Lucas) based on the application and record of experience submitted. This award is subject to this Authority providing the following;
- (i) a corporate commitment to seek and adhere to the advice of the named officer on applications for listed building consent, and
  - (ii) where the advice of the named officer is not available, or the application is proposed to be approved against the advice of the named officer, Cadw will be notified in order to consider call-in.
- 4.2 Members are reminded that the removal of the requirement to notify Cadw takes out a time-consuming and resource intensive part of the Listed Building Consent cycle for both Cadw and the local planning authority. It strengthens local decision-making, makes it timely and efficient, and improves the service available to the public.
- 4.3 If agreed and accepted this delegation will apply to all Grade II Listed buildings within the County Borough (331 of the 375 listed buildings within the County Borough, including those Grade II Listed Buildings within the ownership of Bridgend County Borough Council). The notification process will continue to apply to any application which involves the demolition of a listed building or works to grade I or II\* listed buildings. The feedback from Cadw confirms that in its opinion the right expertise and processes are in place within this Authority to make robust and sound decisions which protect and preserve the historic environment. Listed Building Consent Delegation is given to local authorities that have a robust local policy framework supported by sound processes, practices and decision making informed by specialist conservation officer advice aimed towards the conservation and protection of the historic environment. Cadw will maintain a close working relationship with this authority if it accepts delegation through an annual review process and can continue to provide advice and guidance at the request of the conservation officer.
- 4.4 The Development Control Committee currently has delegated to it by Council the power to discharge the Council's functions under the Planning(Listed Buildings and Conservation Areas) Act 1990 which are detailed in the Constitution. The delegated power includes the power to determine application for Listed Building Consent but subject to the requirement to notify Welsh Ministers in line with Section 13 of the Act as mentioned in Paragraph 3.1 of this report. If members agree to accept the recommendations in this Report the Constitution will require a change to the delegation to add that the Committee can approve applications for Listed Building Consent without the need for referral to Welsh Ministers if it has on any application

for Listed Building Consent received and adhered to the advice of the Senior Conservation and Design Officer Moira Lucas.

## **5. Effect upon policy framework and procedure rules**

- 5.1 If this Authority agrees to accept this offer of Listed Building Consent Delegation amendments to the Council's scheme of delegation will be required via full Council approval.

## **6. Equality Act 2010 implications**

- 6.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

## **7. Well-being of Future Generations (Wales) Act 2015 implications**

- 7.1 Listed Building Consent Delegation forms part of the Statutory Planning Service and will be progressed in line with the 7 Well-being goals and the 5 ways of working as identified in the Act.

## **8. Financial implications**

- 8.1 Funding is in place to support the Senior Conservation and Design Officer, the named officer, within the Communities Directorate until December 2023. If delegation is accepted external funding opportunities will be sought to maintain the dedicated staff arrangements beyond this date to deal with listing building consent applications, their subsequent monitoring of proposals on site and enforcement. . If external funding opportunities cannot be sourced, there is an intention to submit a budget pressure bid as part of the 2024-25 Medium Term Financial Strategy to support this function. If the budget pressure is unsuccessful, the Directorate will have to identify internal budgets.

## **9. Recommendations**

- 9.1 It is recommended that the Development Control Committee:-
- agree a commitment to seek and adhere to the advice of the named officer (Senior Officer Conservation and Design Mrs Moira Lucas) on applications for listed building consent

- agree that where the advice of the named officer is not available, or the application is proposed to be approved against the advice of the named officer, Cadw will be notified in order to consider call-in
- accept the offer from CADW of Listed Building Consent Delegation on all Grade II Listed Buildings
- agree that this report be referred to Council for agreement to amend the Constitution as described in paragraph 4.4 of this report along with any other necessary amendments

**Janine Nightingale**

**CORPORATE DIRECTOR COMMUNITIES**

5<sup>th</sup> January 2023

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**Background documents:**

None



## Cyfarwyddyd i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr mewn Perthynas â'r Gofyniad i Hysbysu Gweinidogion Cymru am Geisiadau am Gydsyniad Adeilad Rhestredig

1. Mae adran 13 o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 ("y Ddeddf") yn ei gwneud yn ofynnol, os yw awdurdod cynllunio lleol y gwneir cais am gydsyniad adeilad rhestredig iddo yn bwriadu rhoi cydsyniad, bod rhaid iddo hysbysu Gweinidogion Cymru am y cais yn gyntaf. Yna caiff Gweinidogion Cymru arfer eu pŵer o dan adran 12 o'r Ddeddf i alw'r cais i mewn i benderfynu arno, neu cânt roi hysbysiad i'r awdurdod cynllunio lleol bod angen rhagor o amser arnynt i ystyried y cyfeiriad, neu gallant hysbysu'r awdurdod nad yw Gweinidogion Cymru yn bwriadu arfer eu pŵer galw i mewn.
2. Mae adran 15(1) o'r Ddeddf yn grymuso Gweinidogion Cymru i gyfarwyddo nad oes angen rhoi hysbysiad o'r fath mewn perthynas â disgrifiadau penodol o geisiadau ac mae adran 15(6) o'r Ddeddf yn grymuso Gweinidogion Cymru i arfer y pŵer hwnnw mewn perthynas ag awdurdodau cynllunio lleol yn gyffredinol neu awdurdodau cynllunio lleol penodol neu ddisgrifiadau o awdurdodau.
3. I'r graddau y mae'r canlynol yn berthnasol i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr, o ddyddiad y Cyfarwyddyd hwn:
  - a. mae'r Cyfarwyddyd o'r enw "[Cyfarwyddyd Geisiadau Cydsyniad Adeilad Rhestredig \(Datgymhwyso Dyletswydd i Hysbysu Gweinidogion Cymru\) \(Cymru\) 2017](#)" sydd wedi'i gynnwys yn Atodiad A o lythyr Cadw dyddiedig 2 Mai 2017 yn cael ei ddirymu; a
  - b. mae'r Cyfarwyddyd a nodir ym mharagraffau 4 a 5 isod yn cael effaith.
4. Yn ddarostyngedig i baragraff 5 isod, trosglwyddwyd Gweinidogion Cymru, wrth arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adran 15(1) a (6) o Ddeddf 1990, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac sydd yn rhinwedd adran 162 o, a pharagraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 yn arferadwy bellach gan Weinidogion Cymru, drwy hyn yn cyfarwyddo nad yw adran 13 o Ddeddf 1990 yn gymwys i geisiadau a gyflwynir i Gyngor Penybont am gydsyniad adeilad rhestredig ar gyfer cyflawni gwaith sy'n effeithio ar du allan neu ar du mewn adeilad rhestredig gradd II (heb seren).
5. Bydd adran 13 o Ddeddf 1990 yn parhau i fod yn gymwys i geisiadau sy'n cael eu cyflwyno i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr am gydsyniad adeilad rhestredig:
  - (i) sy'n cynnwys dymchwel. Yn y cyd-destun hwn, mae'r llysoedd wedi dyfarnu bod dymchwel yn golygu tynnu adeilad i lawr fel ei fod yn cael ei ddinistrio'n llwyr neu o leiaf i raddau sylweddol iawn (Shimizu (UK) Ltd v. Westminster Council (1997) 1 All E. R. 481);
  - (ii) y mae'n ofynnol i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr ei gyflwyno i Weinidogion Cymru yn unol â rheoliad 9 o Reoliadau Cynllunio

(Adeiladau Rhestredig ac Ardaloedd Cadwraeth) (Cymru) 2012 (O.S. 2012/793);

- (iii) sy'n ymwneud â gwaith sy'n effeithio ar du allan adeiladau rhestredig gradd II (heb seren), lle mae Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr yn dymuno rhoi cydsyniad yn groes i gyngor Swyddog Cadwraeth Adeiladau a enwir neu lle, am ba bynnag reswm, ni fydd Swyddog Cadwraeth Adeiladau a enwir yn gallu cynnig cyngor ar y cais hwnnw. Y Swyddog Cadwraeth Adeiladau a enwir yw Ms Moira Lucas; neu
- (iv) sy'n effeithio naill ai ar du mewn neu ar du allan adeilad rhestredig Gradd I neu II (â seren).

6. Wedi'i lofnodi gan Matthew Coward, dan awdurdod Dirprwy Weinidog y Celfyddydau a Chwaraeon, a'r Prif Chwip, un o Weinidogion Cymru.

*Matthew Coward*

Dyddiad: 1 Chwefror 2023


## **Direction to Bridgend County Borough Council in Respect of the Requirement to Notify the Welsh Ministers of Applications for Listed Building Consent**

1. Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Act") requires, if a local planning authority to which application is made for listed building consent intend to grant consent, that they must firstly notify the Welsh Ministers of the application. The Welsh Ministers may then exercise their power under section 12 of the Act to call-in the application for determination, or they may give notice to the local planning authority that they need further time in which to consider the reference, or they may notify the authority that the Welsh Ministers do not intend to exercise their call-in power.
2. Section 15(1) of the Act empowers the Welsh Ministers to direct that such notification is not required in respect of certain descriptions of applications and Section 15(6) of the Act empowers the Welsh Ministers to exercise that power in relation to local planning authorities generally or to particular local planning authorities or descriptions of authorities.
3. Insofar as the following apply to Bridgend County Borough Council, from the date of this Direction:
  - a. the Direction entitled "[Listed Building Consent Applications \(Disapplication of Duty to Notify Welsh Ministers\) \(Wales\) Direction 2017](#)" included within Annex A of Cadw's letter dated 2 May 2017 is revoked; and
  - b. the Direction set out in paragraphs 4 and 5 below has effect.
4. Subject to paragraph 5 below, the Welsh Ministers, in exercise of the powers which were conferred on the Secretary of State by section 15(1) and (6) of the 1990 Act, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and which by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 are now exercisable by the Welsh Ministers, hereby direct that section 13 of the 1990 Act does not apply to applications submitted to Bridgend County Borough Council for listed building consent for the carrying out of work affecting the exterior or interior of a grade II (unstarred) listed building.
5. Section 13 of the 1990 Act will continue to apply to applications submitted to Bridgend County Borough Council for listed building consent:
  - (v) which involve demolition. In this context, the courts have ruled that demolition amounts to pulling down a building so that it is destroyed completely or at least to a very significant extent (*Shimizu (UK) Ltd v. Westminster Council* (1997) 1 All E. R. 481);
  - (vi) which Bridgend County Borough Council is required to submit to the Welsh Ministers in accordance with regulation 9 of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (S.I. 2012/793);
  - (vii) relating to works affecting the exterior of grade II (unstarred) listed buildings, where Bridgend County Borough Council wishes to grant

consent contrary to the advice of a named Building Conservation Officer or where, for whatever reason, a named Building Conservation Officer will not be able to offer advice on that application. The named Building Conservation Officer is Ms Moira Lucas; or

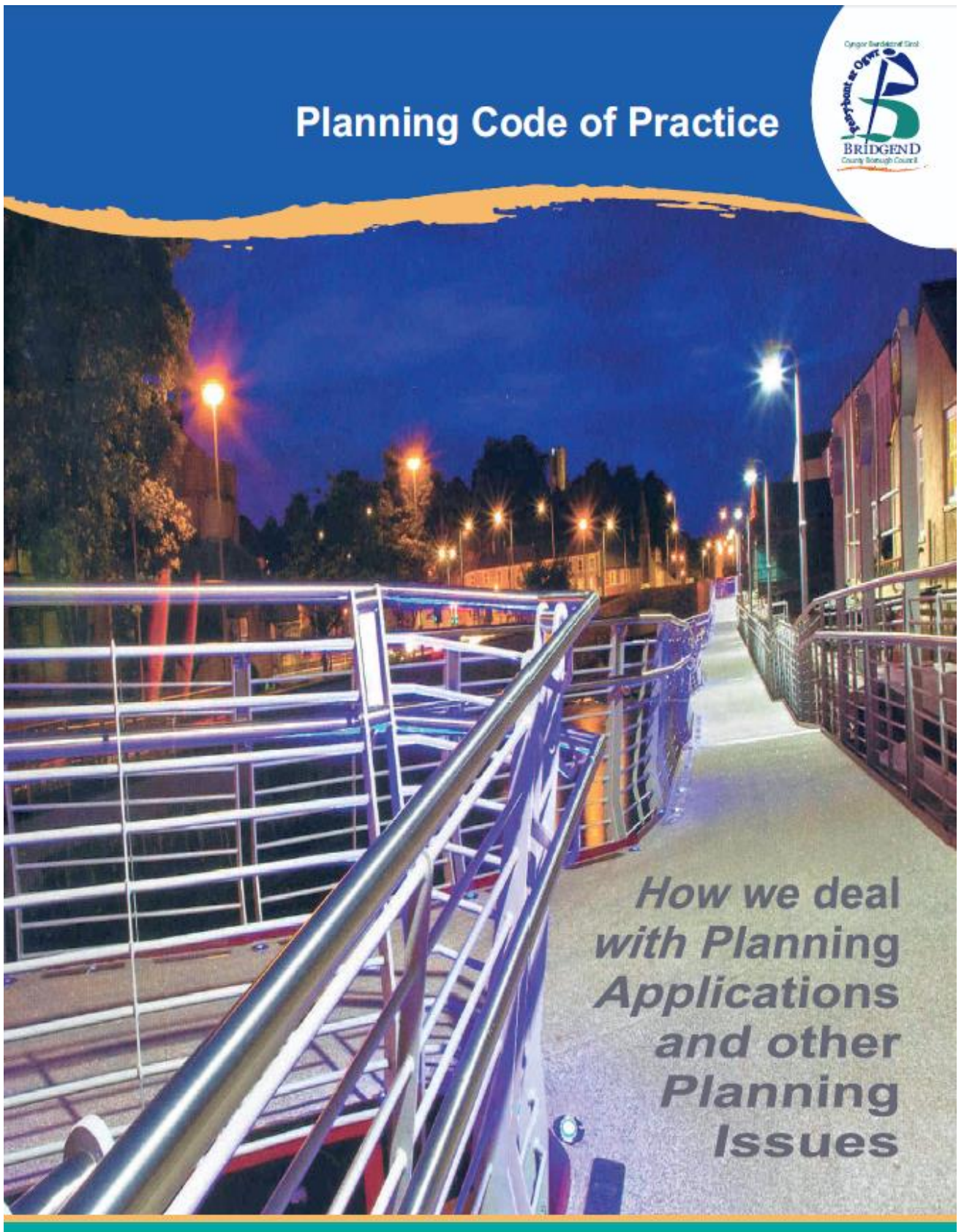
(viii) which affects either the interior or exterior of a Grade I or II (starred) listed building.

6. Signed by Matthew Coward under authority of the Deputy Minister for Arts & Sport and Chief Whip, one of the Welsh Ministers.

A handwritten signature in black ink that reads "Matthew Coward". The signature is written in a cursive, slightly slanted style.

Date: 1 February 2023

# Planning Code of Practice



*How we deal  
with Planning  
Applications  
and other  
Planning  
Issues*

**Bridgend County Borough Council**

Updated May 2022

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**This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg**

## 1. INTRODUCTION

The Planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, national Planning Guidance and other material considerations. Planning can be highly contentious because its decisions affect the daily lives of individuals, landowners and developers.

In considering planning applications and reaching planning decisions the requirements of the individual, whether the applicant or a neighbour, have to be balanced against the broader public interest.

It is important that the process is open and transparent. The main aim of this Code of Practice is to ensure that planning decisions have been made in an unbiased, impartial basis and that all parties understand the process.

Members are advised to read all the guidance material provided by the Council (BCBC Website) including the Local Authorities (Model Code of Conduct) (Wales) Order 2008 (the Code of Conduct), the Planning Committee Protocol produced by the Welsh Local Government Association and the WG Development Management Manual [here](#)

In addition, the Planning Advisory Service (PAS) published '*Probity in Planning*' which clarifies how members can get involved in planning discussions on applications, on behalf of their communities in a fair, impartial and transparent way. Members must act in accordance with the provisions of the Code of Conduct at every stage of the planning process.

This Code of Practice provides guidance to elected Members, Officers, the general public, applicants and developers on the planning process.

The document will be updated on an annual basis or as and when new and relevant national regulations or guidelines emerge.

The document was last updated in may 2022 after the Development Control Committee agreed to changes in October 2021.

## **2. ROLE OF MEMBERS AND OFFICERS**

### **2.1 General**

#### **2.1.1 Differing Roles**

Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole.

Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not individual Councillors, and Member's instructions may only be given to Officers through a decision of the Council, its Executive or a Council Committee.

#### **2.1.2 Relationship and Trust**

It is important that a good relationship exists between Councillors and Officers and that this is based on mutual trust and understanding of each other's positions. This relationship and trust must never be abused or compromised.

### **2.2 Role of Officers**

The Officer's function is to advise and assist Councillors in the formulation of planning policies in the determination of planning applications. Officers should:-

- Provide impartial and professional advice.
- Make sure that all the information necessary for the decision to be made is given.
- Provide a clear and accurate analysis of the issues.
- Set applications against the broader Development Plan policies and all other material considerations.
- Give a clear recommendation.
- Carry out the decisions made by Councillors in Committee or through the delegated authority of the Corporate Director Communities.
- Update Members on new legislation and guidance.



## **2.3 Role of Councillors**

### **2.3.1 Upholding Policy**

The full Council is responsible for setting the Council's formal planning policy framework through the Development Plan. As a general principle there is an expectation that Councillors will uphold the Council's planning policies.

### **2.3.2 Planning consideration**

It falls to the Development Control Committee to determine planning and related applications within the context of these planning policies. When Councillors come to make a decision they must:-

- Be clear as to whether or not they have an interest which needs to be declared.
- Act fairly and openly.
- Approach each application with an open mind.
- Carefully weigh up all relevant issues.
- Determine each application on its own merits.
- Avoid giving the impression that the Member has made her / his mind up prior to the application being determined.
- Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

### **2.3.3 Ward Member Views**

Where a planning application relates to an elected member's ward, the views of the local Member are important to the Officers and to the Chair and Members of the Development Control Committee.

Local Members can be approached by applicants and by objectors and should consider whether their interests have been prejudiced and should disclose this to the Planning Case Officer and Principal Legal Officer at the Development Control Committee. Whilst Members have a responsibility to their constituents, including those who did not vote for them, their overriding duty is to the whole County.

### **2.3.4 Development Control Committee**

Members should not become too closely identified with special interest groups if they wish to vote in the Development Control Committee.

At a meeting of the DC Committee Members with a personal and prejudicial interest in a particular application must declare that interest in accordance with the provisions of the Code of Conduct and leave the meeting when the item in which they have a personal and prejudicial interest is discussed.

However, under the provisions of the Code of Conduct a member with a personal and prejudicial interest can speak to the extent that a member of the public can speak but will then have to leave the Chamber as soon as they have finished speaking and before the debate and vote. Any member who wishes to exercise a right to speak in these circumstances should contact the Committee Chair and the Legal Officer in advance of the meeting.

Where a DC Committee Member has declared a non-prejudicial interest in an item on the agenda they can then take part in the debate and vote.

Where wards have more than one elected member, only one can sit on the planning committee in order to allow at least one of the ward members to perform the representative role for local community interests.

## **2.4 Member/Officer Contact**

### **2.4.1 *Understanding roles***

The Officer/Member relationship is extremely important for good decision making and the delivery of an effective planning service.

The mutual understanding of their respective roles and respect for each other's position is vital for good relations.

### **2.4.2 *Contact & Appointments***

In making enquiries regarding individual applications Members should make contact with the Case Officer or Development and Building Control Manager or the Team Leader and make an appointment if necessary.

Members should not seek advice or information from other Officers. This is in the interests of efficiency and to avoid duplication of effort and confusion.

### **2.4.3 *Assistance from Officers***

Officers will provide every reasonable help to Members in the carrying out of their duties. Meetings between Officers and Members may sometimes be helpful, but are only likely to be of value if prior arrangements have been made. This allows the Officer to have all relevant documents available at the meeting. Prior arrangements may be made by emailing the relevant Officer or the general Planning email address ([planning@bridgend.gov.uk](mailto:planning@bridgend.gov.uk)). The Members' room can be utilised and other suitable rooms, preferably with access to a computer, can be made available by mutual agreement if privacy is required.

### **2.4.4 *Non-interference***

It is acknowledged that Members and Officers may well have differing views on a proposal but Members should not influence, interfere with or put pressure on Officers to make a particular recommendation.

### **3. TRAINING**

#### **3.1 Undertaking training**

Members of the Development Control Committee must receive training before being able to speak or vote at a Development Control Committee meeting. The training will also be offered to all Members.

#### **3.2 Core/Fundamental training**

Core Training will consist of sessions covering new legislation, planning procedures, the Development Plans, Supplementary Planning Guidance, Design Guides, material planning considerations, probity and the application of this Code of Practice.

#### **3.3 Other training**

There will be other training arranged by Officers in consultation with Members and other departments of the Council in the form of additional sessions, seminars and workshops on topical and specific issues to keep Members up to date on new procedures, advice and guidance.

#### **3.4 Attendance & Monitoring**

Members of the Development Control Committee should attend the core training sessions.

## **4. REGISTRATION AND DECLARATION OF INTERESTS**

### **4.1 Code of Conduct**

Councillors should follow scrupulously the Council's Constitution and the **Code of Conduct** in relation to registration and declaration of interests and, if an interest is declared, in deciding whether the Councillor should participate in the consideration of an application. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.

If a Member considers he/she may have a personal interest they should consult the Monitoring Officer or a Senior Officer of the Legal & Regulatory Services Officer's Department for advice on their position.

### **4.2 Relationship with Third Parties**

If a Member of the Development Control Committee has had such a significant personal involvement with an applicant, agent, landowner or other interested party whether or not in connection with the particular matter under consideration by the Committee, which could possibly lead to the reasonable suspicion by a member of the public that there may be any possibility that the involvement could affect the Councillor's judgement in any way, then the Councillor should consider carefully whether the involvement amounts to a personal and prejudicial interest, which would debar him/her from participation in the decision-making process.

### **4.3 Personal and Prejudicial Interests**

#### **4.3.1 Disclosure**

The principles about the disclosure of interests should be applied, not only to formal meetings, but also to any of a Councillor's dealings with Council Officers, or with other Councillors. Where a Councillor has a personal and prejudicial interest, as defined by the Code, it must always be declared. It does not necessarily follow that the Councillor is debarred from participation in the discussion.

The responsibility for declaring an interest lies with the Councillor, but the Monitoring Officer is there to advise. If there is any doubt in a Councillor's mind, he/she should seek early advice from the Monitoring Officer or other Senior Officers of the Legal & Regulatory Services on their position. Councillors should err on the side of declaring an interest when they are not sure.

#### **4.3.2 Interests**

Members who have substantial property, professional or other interests relating to the planning function which would prevent them from voting on a regular basis, should avoid serving on the Development Control Committee.

#### **4.3.3 Action when interest declared**

Where a Member has decided he/she has a personal or prejudicial interest making it inappropriate for that Member to be involved in the processing and determination of a planning application in his/her ward, such a Member may arrange for another Member to act as local member instead.

In such a situation the local Member should inform the Monitoring Officer and the Case Officer of the arrangement made and should take no further part in the processing and determination of the planning application other than referring any representations or communications received to the Member who is acting as local Member.

However, the use of substitute members is not allowed at DC Committee meetings.

#### **4.4 Declaration of Interest**

When declaring an interest at Committee, this should be done at the beginning of the meeting. Councillors should be clear and specific in identifying the item on the agenda in which they have an interest, and the nature of that interest.

#### **4.5 Register**

A register of Members' interests is maintained by the Council's Monitoring Officer. It is available for public inspection. Each Councillor has a responsibility to provide the Monitoring Officer with up to date written details of relevant interests.

#### **4.6 Dual Community/Town Council Membership**

##### ***4.6.1 Interest***

Membership of a Town/Community Council which has expressed a view on a planning matter does not in itself mean that the Councillor cannot take part in the determination of the matter when it comes before the Development Control Committee provided that the Councillor has kept an open mind and not committed himself/herself to a final view on the matter until all the arguments for and against have been aired at Committee.

If the Councillor has been a party to the decision making process of a planning application at a Town/Community Council meeting then they should declare an interest at the Development Control Committee and not take part in the decision making process.

Members should always declare a personal interest where they are a member of a Town/Community Council even if they did not take part in the decision making process at that Council.

##### ***4.6.2 Town & Community Applications***

Where an application submitted by a Community or Town Council is being considered then a Member of that Council may not vote on the proposal to determine the application.

## **5. LOBBYING**

### **5.1 Lobbying**

Lobbying or otherwise seeking to influence a decision is an accepted part of the planning process. The Nolan Committee's Third Report states *"it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective way that this can be done is via the local elected representatives, the Councillors themselves"*. However unless care and common sense is exercised by all parties, the impartiality and integrity of a Councillor that has been lobbied can be called into question.

The Councillor should take care not to make any comments in such discussions that might lead anyone to think that they had taken a firm view on the application.

There is no clear definition of lobbying and Members will need to take a personal view of what it amounts to. For the purposes of this document lobbying is defined as any involvement or approach by an interested party where that party is advocating a certain outcome. This can include instances where a Member is copied into correspondence by an interested party or another Member.

If a Development Control Committee Member is approached, the most prudent course of action is to not offer any indication of their views but simply listen to the case that is presented to them and advise on procedural matters only.

Sometimes planning applications generate strong feelings in the community resulting in public meetings. Members should consider whether it is appropriate to attend public meetings as this may be interpreted as adopting a position for/against a proposal. If they do attend they should publicly record that they are in attendance to hear the debate only and will not come to a final decision until they have heard all the evidence.

This advice applies to the Pre-Application Consultation process implemented by the Welsh Government in March 2016 (see Section 8.2 below).

### **5.2 Decision on Merits**

Councillors are under an obligation to determine matters on their merits. That means that they should not take a firm view on a planning matter before receiving and reading any Officer's report or receiving any new information reported to the Committee.

Whilst Members of the Committee may form an initial view or opinion, and indicate their view that an application is contrary to policy, they should not openly declare which way they intend to vote in advance of the Development Control Committee meeting.

To avoid compromising their position before they have received all the relevant information, Councillors are advised that they should:-

- Refer applicants / developers who approach them for planning or procedural advice to the case Officer.
- Avoid making it known in advance whether they support or oppose the proposal.
- Avoid campaigning actively in support of a particular outcome.
- Not put pressure on Officers to make a particular recommendation in their report.
- Direct lobbyists or objectors to the case Officer, who will include reference to their

opinions where relevant in their report.

- Make it quite clear that they will not make any final decision on the proposal until they have received full information at the Development Control Committee.

### **5.3 Contact**

Members should declare significant contact with applicants and objectors. Significant contact is where a Member has been contacted (either orally or in writing) and believes his/her interests have been prejudiced. Members should always remember that the test as to whether their interests have been prejudiced is not just what they consider to be the case but what a reasonable bystander who is aware of all the facts of the contact would consider to be the case.

### **5.4 Ward Councillors**

Members must advise the Ward Councillor as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside of their own Ward. It is accepted that where a planning application has a significant effect on another ward the Member(s) for that ward is entitled to become involved in the development proposal.

### **5.5 Monitoring Officer**

Councillors should in general, avoid organising support for or against a planning application. Where a Councillor does organise support for or against a planning application then that Councillor should not vote at Development Control Committee on such a planning application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer or other Senior Officer of the Legal and Regulatory Service Officers Department.

### **5.6 Predetermination**

If a Councillor expresses support for, or opposition to, a proposal before the matter is formally considered at the relevant meeting, whether or not there has been lobbying, he / she could have some difficulty in being able to claim to retain an open mind on the issue and to be prepared to determine the application on its merits. If a Councillor does express an opinion, then they should make it clear that it is a preliminary opinion and that he / she will only be in a position to take a final decision when all the evidence and arguments have been considered.

### **5.7 Members function**

Provided that Councillors comply with 5.1., 5.2, 5.3, 5.4, 5.5 and 5.6 above they are able to:-

- Listen and receive viewpoints from residents, constituents or other interested parties.
- Make comments to residents, constituents, interested parties, other Councillors or Officers.
- Seek information through the appropriate channels.
- Bring to the Committee's attention views / opinions of residents, constituents or other interested parties.
- Participate in the decision making process.

### **5.8 Disclosure**

If however a Councillor has not complied with paragraphs 5.1, 5.2, 5.3, 5.4, 5.5 and 5.6 above, and has made it clear that he or she has predetermined the matter, they should not speak or vote on the matter.



## **6. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS**

### **6.1 Not to be delegated**

Planning applications submitted by or on behalf of Members or any member of the Council's Development or Highway Services staff involved in the processing/commenting upon applications, any Chief Officer of the Authority or any officer reporting directly to a Chief Officer (or the spouse or partner of any of these) shall be decided by the Development Control Committee and not by the Corporate Director Communities under delegated powers if a material planning objection to their application is received.

### **6.2 Declaration of Interest**

A Member affected by clause 6.1 shall declare a personal and prejudicial interest at any meeting of the Development Control Committee to determine the application, take no part in the decision and leave the meeting place. The Member may be able to take part in proceedings as a speaker only under the relevant provisions of the Code of Conduct (see Paragraph 2.3.4 above).

### **6.3 Officer affected**

The affected Officer shall take no part in the processing of the application and its determination and shall leave any meeting of the Development Control Committee before the relevant item is discussed.

## **7. APPLICATIONS SUBMITTED BY THE COUNCIL**

### **7.1 Equal footing Council Applications**

It is important that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

### **7.2 Council applications – Consultation**

All such proposals will be subject to the same administrative processes, including consultation, as private applications with consideration being made in accordance with policy and any other material planning considerations.

### **7.3 Transparency**

In order to ensure transparency and openness in dealing with such applications Council proposals (save for discharge of conditions) will be determined by the Development Control Committee if a material planning objection is received and not by the Corporate Director Communities Officer under delegated powers.

## **8. PRE-APPLICATION**

### **8.1 Pre-Application Advice**

It is good practice for potential applicants to seek advice from the LPA prior to submitting an application. However, unless these discussions take place under specific rules, they can be seen as a form of lobbying (especially by objectors) or in some way predetermining the future planning application.

Pre-application discussions will (unless in exceptional circumstances) be carried out solely by officers. This is to protect the impartiality of Members. Exceptional circumstances are not defined in this document but will be limited to cases where there is an overriding need for Members to be present in the public interest.

All discussions take place on a without prejudice basis. The advice offered is not binding on the Council but every effort is made to ensure that the advice is consistent and sound in planning terms.

Members and Officers must be aware that pre application advice is no longer free of charge. This places an additional responsibility on Officers to provide a quality service. If Members later take a decision that conflicts with any pre application advice given by Officers, they must only do so for material planning reasons that are clearly expressed and recorded in minutes.

Pre application discussions will be conducted in private.

### **8.2 Pre-Application Consultation on Major Developments**

The requirement to undertake pre-application consultation applies to all planning applications for “major” development (full or outline) and applications for Developments of National Significance (DNS).

Developers are also required to undertake pre-application consultation with “community consultees” and “specialist consultees”.

“Community consultees” comprise:

- Each community council (this includes both town and community councils) in whose area the proposed development would be situated; and/or
- Each councillor (local member) representing an electoral ward in which proposed development would be situated.

Developers are required to inform all local councillors that are responsible for the electoral ward in which the proposed development is located.

If the proposed development straddles a number of electoral wards, all local councillors within those wards will be notified by letter.

Ward Members are entitled, and are often expected, to have expressed views on planning issues. If such comments are expressed members of the Development Control Committee should be careful to stress that they will only make up their mind when they have seen the full report on any particular application.

Members can through personal significant involvement in preparing or advocating a proposal be, or be perceived by the public as being, no longer able to act impartially. Members are able to take part in a consultation on a proposal and, if they are a member of the DC Committee, the subsequent determination of the application provided that:-

- They do not in any way commit themselves as to how they may vote when the proposal comes before the DC committee for determination;
- They focus only on site factors and site issues;
- They do not excessively lobby fellow councillors regarding their concerns or views and not attempt to persuade them how to vote in advance of the meeting at which the planning decision is take;
- They are not involved in negotiations regarding the application. These should be conducted by Officers separately from any pre-application discussions members have been involved in.

At pre-application consultation stage Members can ask relevant questions for the purpose of clarifying their understanding of the proposal but must remember that the presentation is not part of the formal process of debate and determination of any application.

## 9. DEVELOPMENT CONTROL COMMITTEE SITE VISITS

### 9.1 Purpose

#### 9.1.1 *Fact Finding*

Development Control Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises held for the benefit of Members where a proposed development may be difficult to visualise from the plans and supporting material.

They may also be necessary for careful consideration of relationships to adjoining property or the general vicinity of the proposal due to its scale or effect on a listed building or conservation area for example.

### 9.2 Request for a Site Visit

#### 9.2.1 *Ward Member request for Site Visit*

Site visits can be costly and cause delays so it is important that they are only held where necessary normally on the day prior to Committee and where there is a material planning objection.

Site visits must never be called simply to expose other Members to the strength of public opinion. The public speaking policy exists for the public to be heard at Planning Committee. The volume of objectors or supporters to a planning application is not relevant if the basis of their opinion is based upon non material planning considerations.

Site visits, whether Site Panel or Full Committee, are held pursuant to (1) a decision of the Chair of the Development Control Committee (or in his/her absence the Vice Chair) or (2) a request received within the prescribed consultation period from a local Ward Member (or another Member consulted because the application significantly affects the other ward), and where a material planning objection has been received by the Development Department from a statutory consultee or local resident.

A request for a site visit made by the local Ward Member or another Member in response to being consulted on the proposed development must be submitted in writing or electronically within 21 days of the date they were notified of the application **and shall clearly indicate the material planning reasons for the visit.**

Whilst any such request will be taken into consideration in terms of necessity, safety and expediency, it may not be possible to arrange a site visit as a matter of course and Members should be aware that we have not yet returned to a business as usual approach. The Chair will be the arbiter in these circumstances.

Site visits cannot be undertaken for inappropriate reasons (see Paragraph 9.2.2).

Site Visits are an important part of the decision making process and they should occur on the same day and at the same time (i.e. from 9.30am on the Wednesday before committee).

### **9.2.2 *Inappropriate Site Visit***

Examples where a site visit would not normally be appropriate include where;

- purely policy matters or issues of principle are at issue
  - to consider boundary or neighbour disputes
  - issues of competition
  - loss of property values
- any other issues which are not material planning considerations (See Appendix 2) where Councillors have already visited the site within the last 12 months

## **9.3 Format and Conduct at the Site Visit**

### **9.3.1 *Attendance***

Members of the Development Control Committee, the local Ward Member(s) and the relevant Town or Community Council will be notified in advance of any visit.

The applicant and/or the applicant's agent will also be informed as will any person who has registered an intention to speak at Committee but it will be made clear that representations cannot be made during the course of the visit.

### **9.3.2 *Officer Advice***

The Chair will invite the Planning Officer to briefly outline the proposals and point out the key issues raised by the application and of any vantage points from which the site should be viewed.

Members may ask questions and seek clarification and Officers will respond. The applicant or agent will be invited by the Chairman to clarify aspects of the development and the local Ward Member(s) and one objector who has registered a request to speak at Committee and a Town/Community Council representative will be allowed to clarify any points of objection, both only in respect of any features of the site or its locality which are relevant to the determination of the planning application. Any statement or discussion concerning the principles and policies applicable to the development or to the merits of the proposal will not be allowed.

### **9.3.3 *Code of Conduct***

Although site visits are not part of the formal Committee consideration of the application, the Code of Conduct still applies to site visits and Councillors should have regard to the guidance on declarations of personal interests.

### **9.3.4 *Record keeping***

A file record will be kept of those attending the site visit.

### **9.3.5 *Site Visit Summary***

In summary site visits are:-

- A fact finding exercise.
- Not part of the formal Committee meeting and therefore public rights of attendance do not apply.
- To enable Officers to point out relevant features.
- To enable questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent Committee.

The frequency and reason for site inspections will be monitored and reports will be

submitted periodically to Committee, in order that these guidelines can be kept under review.

## **10. PROCEDURE AT DEVELOPMENT CONTROL COMMITTEE**

### **10.1 Delegation**

The majority of planning applications are determined by the Corporate Director Communities Officer under the Council's Delegation scheme. This is necessary to ensure that most decisions are made in a timely manner.

Delegation is a more efficient and speedy means of determining planning applications. In most instances the outcome will be the same. Increased performance management and targets set by Welsh Government mean that delegation will need to increase in future if these targets are to be met.

Whilst Members have a right to request that applications affecting their ward be determined by the Development Control Committee such requests can only relate to applications where a material objection has been lodged and should then be justified by clearly identifying in writing why a Committee decision is required. This is generally done on the return notification form sent out to Ward Members.

The delegated arrangements shall be in accordance with the Council's scheme of Delegation of Functions (See Appendix 1).

### **10.2 Reports**

Officers will produce written reports on all planning applications reported to Committee. In respect of each proposal the report will include, amongst other matters:-

- description of the proposal,
- description of the site,
- responses to consultations and officer observations thereon,
- summary of objections and / or support received,
- relevant site history,
- relevant Development Plan policies,
- relevant planning guidance where appropriate,
- any other material planning consideration,
- an appraisal by the Case Officer which will include the relevant views of other consulted Officers within the Development Department,
- a clear recommendation,
- brief details of any conditions to be imposed, or,
- full details of reasons for refusal.

### **10.3 Late observations**

Late observations received by 5pm on the Tuesday before a Committee meeting will be summarised and reported separately and circulated to Members immediately prior to the start of the meeting (although it is acknowledged that later representations may include valid material planning points that should be considered and included within the amendment sheet).

Members should not attempt to introduce documentation at the Committee meeting where the Planning Officer has not had an opportunity to consider the contents of the documentation. This is essential to ensure Members receive properly considered and correct advice.



Members should not give any significant weight to late submissions put directly to them instead of the LPA (ostensibly in an attempt to influence opinion) where they contain nothing new or merely assert a point without any clear evidence.

Any representations sent directly to members of the DC Committee the evening or morning before the scheduled meeting should be passed on to Officers to add to the file.

#### **10.4 Officer Report at Committee**

The Planning Officer will, at the Chairs request, briefly introduce each item highlighting the key issues for Members consideration.

#### **10.5 Deferment**

Where a Member seeks and obtains a majority for a deferment for a specific purpose then there will be no further debate on that matter until such time as the proposal is re-presented.

Public Speaking will take place in accordance with the agreed Public Speaking arrangements.

## **11. DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

From time to time members of the Development Control Committee will disagree with the professional advice given by the Corporate Director Communities. The Committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. If Members are minded to make a decision contrary to the Officer's recommendation the application should be referred to the next meeting of the Committee to enable officers to advise Members further.

Where a Member proposes a recommendation contrary to the Officer's recommendation then the proposer should set out clearly the material planning reasons for doing so. The Chairperson will ensure that the Officer is given the opportunity to explain the implications of the contrary decision, before a vote is taken.

In cases where the Development Control Committee decides for good and valid reasons to depart from the Corporate Director Communities recommendation, the Committee must always define the reasons for rejecting the Officer's recommendation and those reasons must be recorded in the minutes of the meeting.

Where Members of the DC Committee are minded to take a decision against Officers recommendation, so that consideration of that matter is deferred to the next meeting of the Committee, Members will receive a further report from Officers upon the strengths and weaknesses of any proposed or possible planning reasons for such a decision.

In cases where Members overturn an Officer's recommendation for approval, the reasons for will be drafted and reported back to members at the next Development Control meeting. In cases where Members overturn an Officer's Recommendation for refusal, conditions subject to which the planning approval should be granted (and if relevant any section 106 obligations which should be imposed on the grant of consent) will be drafted and reported back to members at the next Development Control meeting.

## **12. APPEALS AGAINST COUNCIL DECISIONS**

### **12.1 Officers Role**

Officers will defend planning appeals on behalf of the Council whether by written representations, through a hearing or public inquiry. In some circumstances where specialist knowledge is required it may be necessary to appoint consultants to present the Council's case. There is no budget for such commissions and decisions of this sort will only be taken by the Group Manager – Development in consultation with the Chief Legal Officer.

### **12.2 Committee Members Role**

In cases where an appeal is lodged as a result of a decision taken contrary to Officer advice, the Group Manager – Development will consider whether Members should present the case for the Council. There will be instances where Officers can act in an advocacy role and defend a decision they do not agree with.

However, in cases where that decision is considered unsound, unreasonable or would otherwise compromise the professional position of Officers, Members will be required to present the case, potentially with the aid of an appointed consultant. Officers will assist in terms of technical, logistical and administrative support.

### **12.3 Members support of an appellant**

Where a member, who has expressed support for the applicant at the time of the decision, decides to make representations supporting the appellant, that member must ensure that those representations are qualified at the beginning of an appeal to confirm that those representations are not the view of the Local Planning Authority but are purely the view of that particular member.

Where a Member wishes to make representations at an appeal that are contrary to the decision of the DC Committee they should first inform the Group Manager - Development of their decision so that the Planning Inspectorate can be informed. Members in these circumstances must understand that the views that they put forward do not represent the views of the Council or the DC Committee.

### **12.4 RTPI Code of Conduct**

Whether or not the Officer is a member of the Royal Town Planning Institute, they will be required to respect the professional code of conduct of that RTPI. It demands that Officers do not make statements purporting to be their own but which are contrary to their *bona fide* professional opinion.

Where the Corporate Director Communities clearly feels that Officers would be unable to defend such decisions on appeal (due to requirements of the Professional Code of Conduct of the Royal Town Planning Institute) then this shall be made known to the Committee. In such cases the Committee may nominate a Member who voted contrary to the recommendation to appear at any appeal and explain the Committee decisions and the reasons for them.

### **13. PLANNING AGREEMENTS AND SECTION 106s**

Section 106 agreements are legal obligations. They require a developer to fulfil certain obligations to enable a development to take place e.g. improve an offsite road junction.

Planning permission must never be bought or sold. S106 agreements are not a mechanism for developers to offer “sweeteners” to a Council to obtain planning permission. Similarly, they are not a means of securing facilities that the Council should be providing in any event regardless of the proposal. The obligations placed on a developer must pass the relevant legal tests set out in the Regulations. They must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. All s106 negotiations will take place in light of the LDP and the adopted Supplementary Planning Guidance Document.

The Development Control Committee may, when considering the merits of an individual planning application, consider any planning obligation which has been offered by the applicant or agent but should form a view solely on the basis of the contents of the application and should take into account offered planning obligations only to the extent that they are necessary to make a proposal acceptable in land use planning terms.

Where the draft Heads of Terms of a Section 106 Legal Agreement has been the subject of negotiation between Officers and the applicant/agent post a resolution by Members to approve an application subject to the original terms, Officers will refer any proposed changes back to DC Committee for approval.

Councillors should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits, which may be offered to the Council, or benefits which the Council itself wishes to obtain.

## **14. REGULAR REVIEW OF DECISIONS**

### **14.1 Reviewing Decisions**

As part of the aim to continually improve the quality of planning decisions, Members will be offered the opportunity to revisit implemented planning decisions on site. Such reviews will be a positive step to improve the quality and consistency of decision-making, not only strengthening public confidence in the planning system but also assist with the review of planning policy.

Such reviews will take place when there is scope to fit the programme in between DC Committee meetings and briefing notes will be prepared for each case. The DC Committee will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

## **15. COMPLAINTS PROCEDURE**

The Council has a formal complaints policy and system in operation, which can be used if someone wishes to make a complaint about the operation of the planning system. This policy does not apply if the matter relates to a Freedom of Information or Data Protection issue.

## Appendix 1

### SCHEME OF DELEGATION

The Council operates a scheme of delegation where they have delegated powers to officers to determine most planning applications and other related planning submissions. The Audit Commission has advised that 90% of all planning applications should be determined under delegated powers. This Authority now determines in excess of 90% of all applications received under delegated power arrangements.

Applications to be accepted and dealt with by the Development Control Committee should be as follows:-

- a) an application which is contrary to the provisions of an adopted development plan, and which is recommended for approval, or an application which accords with the provisions of an approved development plan, but which is nevertheless recommended for refusal.
- b) [i] an application in respect of which a statutory consultee has submitted a material planning objection in writing/electronically within the stipulated consultation period and which has not been resolved by negotiation or through the imposition of conditions and which is recommended for approval.  
  
[ii] an application in respect of which a Town/Community Council has submitted a material planning objection in writing/electronically within the stipulated consultation period and which has not been resolved by negotiation or through the imposition of conditions and which is recommended for approval and where other objections to the proposal have been received. If no other objections are received the Corporate Director Communities in consultation with the Chairman of the Development Control Committee shall determine the materiality of the objection to the assessment of the application and whether the application should be reported to the Development Control Committee.
- c) an application which a local Member formally requests should be the subject of consideration by the Development Control Committee by notifying the Corporate Director Communities in writing/electronically (within 21 days of the circulation of details of the application) of the material planning reasons why the Councillor considers the application should be considered by the Committee unless (i) a delegated decision would be in line with the views of the Member or (ii) no other objection has been received within the consultation/publicity period and the Chairman of the Development Control Committee does not consider it necessary to report the application to Committee.
- d) a householder application in respect of which more than two neighbours have submitted a material planning objection in writing/electronically within the stipulated consultation period or any other application in respect of which more than four objectors have submitted a material planning objection in writing/electronically within the stipulated consultation period, which has not been resolved by negotiation or through the imposition of conditions, and which is recommended for approval. The Corporate Director Communities in consultation with the Chairman of the

Development Control Committee shall determine whether objections from members of the same household be treated as one neighbour objection.

- e) an application submitted by or on behalf of a Councillor, any member of the Council's Development or Highway Services staff involved in the processing/commenting upon applications, any Chief Officer of the Authority or any officer reporting directly to a Chief Officer (or the spouse or partner of any of these) if a material planning objection has been received within the stipulated consultation period.
- f) an application submitted by the Corporate Director Communities if a material planning objection has been received within the stipulated consultation period.
- g) an application which the Corporate Director Communities considers should be presented to Committee for decision including those that in the opinion of the Director are potentially controversial, likely to be of significant public interest or which may have a significant impact on the environment.



## **Appendix 2 – Planning Considerations**

### **Relevant or Material Planning Considerations:**

When a decision is made on a planning application, only certain issues can be taken into account. These are referred to as 'material planning considerations'. This list is not exhaustive or in order of importance.

- ✓ *Local and national planning policies e.g. the Local Development Plan and Planning Policy Wales.*
- ✓ *EU law and regulations.*
- ✓ *Government circulars, orders, statutory instruments, guidance and advice e.g. TAN's.*
- ✓ *Planning history including appeal decisions and pre-application consultation with the LPA.*
- ✓ *Case law.*
- ✓ *Socio economic benefits e.g. employment generation.*
- ✓ *Sustainability.*
- ✓ *Nature conservation including habitat and biodiversity opportunities.*
- ✓ *Loss of outlook or overshadowing (not loss of view).*
- ✓ *Flood risk.*
- ✓ *Overlooking and loss of privacy.*
- ✓ *Highway issues e.g. traffic generation, access, highway safety.*
- ✓ *General noise or disturbance resulting from use, including proposed hours of operation.*
- ✓ *Odours, air quality and emissions.*
- ✓ *Archaeology.*
- ✓ *Capacity of infrastructure, e.g. public drainage systems.*
- ✓ *Deficiencies in social facilities, e.g. spaces in schools.*
- ✓ *Contaminated land.*
- ✓ *Loss of or effect on trees.*
- ✓ *Disabled access to existing buildings.*
- ✓ *Effect on listed buildings and conservation areas.*
- ✓ *Layout, scale, appearance and density of buildings.*
- ✓ *Landscaping and means of enclosure.*
- ✓ *Loss of open space.*
- ✓ *S106 or CIL.*

The weight attached to material considerations is a matter of judgement. This will differ from case to case. The decision taker is required to demonstrate that in reaching every decision, they have considered all relevant matters. Greater weight must be attached to issues which are supported by evidence rather than solely by anecdote, assertion or assumption.

## **Non-material or Irrelevant Planning Considerations:**

The LPA is not allowed to take the following into account when deciding a planning application.

- \* Devaluation of property.*
- \* Precedent.*
- \* Moral, racial or religious issues.*
- \* Internal layout of buildings.*
- \* Matters controlled by other legislation e.g. structural stability, fire precautions, licences etc.*
- \* Private issues between neighbours e.g. ownership/ boundary disputes, damage to property, private rights of access, covenants, private rights to light, maintenance of property.*
- \* The identity of the applicant, their motives, personal circumstances or track record in planning.*
- \* Previously made objections/representations regarding another site or application.*
- \* Competition between individual private businesses or the “too many already” principle.*
- \* Loss of view.*
- \* Time taken to complete development.*

## **Appendix 3**

# **NOTES ON PROCEDURE FOR PUBLIC SPEAKING AT DEVELOPMENT CONTROL COMMITTEE MEETINGS**

The following notes are designed to help you to decide if you are eligible to speak at Committee and if so how to go about it, should you wish to do so (please note some 95% of all applications are dealt with under delegated powers and are not reported to Committee).

## **The Meetings**

The Development Control Committee is normally held at the Civic Offices Angel Street, Bridgend, CF31 4WB every sixth Thursday although we have been holding the meetings on Teams since the Pandemic.

The applications that are to be discussed at Committee are set out on a report which is available beforehand.

You are advised to arrive no later than 5 minutes before the meeting which starts at 2pm. A clerk will advise on seating (once the meetings resume in the Chamber) and answer any other queries.

**Speakers should advise the Council in advance if they have any special needs.**

## **Webcasting of meetings**

Speakers should be aware that some meetings will be webcast live on the Council's website and your voice will be heard as part of the live webcast of the meeting.

## **Are you eligible?**

You should be one of the following:-

- An objector against the application or their representative who has submitted an objection in writing detailing your concerns;
- A representative of a Town or Community Council;
- A County Borough Councillor not on the Development Control Committee within whose ward the application is situated or a Cabinet Member;
- The applicant or their agent/advisor (if an objector or a Town or Community Council or a County Borough Councillor not on Committee speaks against your proposal)

## **How do I go about it?**

It is your responsibility to check whether the application is to be considered by Committee by reviewing the Council's website.

Whilst notification letters are sent out before committee, I am unable to guarantee the postal service. Please note that you will only have a short period in which to decide if you want to speak once notified.

## **When can I see the Officer's report?**

The report is available for public inspection from the Monday before the meeting on the planning web page accessible via [www.bridgend.gov.uk](http://www.bridgend.gov.uk)

## **How can I register my desire to speak?**

If you wish to speak at Committee you should confirm your interest in your initial observations and

include your day time telephone number.

You must then confirm between 11.00am and 11.30am on the day (Wednesday) before Committee (for applicants/agents between 11.30am and 12pm) that you still intend to speak by phoning the Cabinet and Committee Officer on (01656) 643148.

### **How is the speaking organised?**

Where more than one objector registers to speak, they will be encouraged to appoint a spokesperson to speak for a maximum of 5 minutes. However, if both parties wish to speak then they will be allocated 2 ½ minutes each to speak. If more than 2 objectors register a request to speak at committee then the first two callers will be allowed to speak on a first come first served basis.

Representatives of the relevant Town or Community Council, the County Borough Councillor not on Committee and applicant/agent will also have 5 minutes each to speak.

The County Borough Councillor not on Committee speaks first and the objector(s) speak(s) next.

Through the Chair, Members will be able to question objectors on any points arising from their address to committee to clarify any points of a technical/fact finding nature.

Where an application is deferred after public speaking had taken place, public speakers will not be heard on the second occasion unless the deferral resulted in a new consultation process or a requirement for an amended scheme.

### **How will the scheme work for Applicants/Agents?**

Once it is known that an objector has registered to speak against an application, the applicant or agent will be notified by the Development Department. If the applicant or agent wish to exercise the right of reply they must notify the cabinet and committee officer on tel: (01656) 643148 between 11.30am - 12.00pm on the day before committee.

Time will be allowed for speaking immediately after the objector and Town/Community Council representative/County Borough Councillor not on Committee or Cabinet Member has spoken.

No guarantee will be given that an application will be determined at any particular Committee nor that an objector will actually speak, in which event the applicant or agent will not be able to speak.

Through the Chair, it will be possible for DC Committee Members to ask technical/fact finding questions of the applicant/agent. The agent/applicant would then be able to clarify points raised by Committee although this process will not be an opportunity to make further representations to committee.

### **How the scheme will work for Town and Community Councils?**

Town and Community Councils will continue to be notified as at present of the receipt of all planning applications in their area. If the Town/Community Council resolve to object to any application and notify the Development Department as above, they will be entitled to address the Development Control Committee.

### **How long can I speak?**

Individual objector, Applicant, Agent or County Borough Councillor not on Committee or Cabinet Member - **Up to five minutes maximum (2 ½ minutes maximum each if there are two objectors who wish to speak)**. This limit will be strictly observed.

## Extraordinary Applications

In the case of extraordinary applications Committee will consider whether public speaking rights need to be extended.

If the Committee agrees, objectors and applicants will each have up to a maximum of 10 minutes to address Committee.

This time can be shared amongst different objectors or representatives on behalf of the applicant. County Borough Councillors not on Committee and the representatives of a Town/Community Council will continue to have 5 minutes to address Committee.

## What can be said at Committee?

- Comments should be limited to relevant Planning issues already raised in the written representations or application. These may include:-
  - Planning policies, including those in the Development Plan;
  - Appearance and character of development, layout and density;
  - Traffic generation, highway safety and parking;
  - Overshadowing, overlooking, noise disturbance or other loss of amenity.
- Matters that cannot be considered by Committee include:-
  - Boundary disputes, covenants and other property rights;
  - Personal remarks (e.g. The applicant's motives);
  - Rights to a view or potential devaluation of property.

The presentation of plans, drawings or other visual aids, the taking of photographs or the use of voice recording equipment will not be permitted.

Speakers may not ask questions of others at the meeting, nor will others be allowed to ask questions of them unless the Chairman wishes to seek clarification.

If the speakers cannot attend the meeting or do not have the technology to partake in the meeting, it may be possible for their representations to be read out at the meeting.

A copy of the speaker's speech should be submitted to the Planning Department via [planning@bridgend.gov.uk](mailto:planning@bridgend.gov.uk) in order for it to be added to the file.

## Who else can speak?

**Officers of the Council** - to present report recommendation and provide advice.

**Members of the Committee** - to consider and reach a decision.

## When is the decision made?

Usually immediately after the discussion by a majority vote of the Committee Members. Sometimes a decision will be deferred for further information, revised plans or a Members' site visit.

Deferred cases are normally brought back to the following meeting and if you did not get an opportunity to speak at the initial meeting, you will need to follow the above procedure to speak at the next meeting.

Please be aware that the Members have to balance different factors and come to an objective decision based on planning considerations.

If they refuse an application contrary to the Officer's recommendation, the item will be reported back to the next meeting after a cooling off period to allow the reasons for refusal to be prepared and they will need to be able to support that decision on appeal.

If Members wish to approve an application contrary to the Officer's recommendation then the item will be reported back to the next meeting after a cooling off period to allow any conditions to be prepared.

### **Can I appeal against the decision?**

Only if you are the applicant. There are no third party rights of appeal.

### **What happens after the Committee?**

The DC Committee's decision and the reasons for it will be confirmed to applicants in writing. Normally applicants (or their agent(s)) will be notified of the decision within three working days (unless it is subject to a Planning Obligation). Objectors can review the decision notice online using the Council website's Planning Search facility.

**Development Group – Communities Directorate**