



DEFA Standing Order No. 2018/01

GOVERNMENT DEPARTMENTS ACT 1987 DEPARTMENT OF ENVIRONMENT, FOOD AND AGRICULTURE

Standing Orders (Planning Committee)

The Department of Environment, Food and Agriculture makes these Standing Orders under section 3(4) of the Government Departments Act 1987¹.

1 Application, commencement and interpretation

- (1) These Standing Orders apply in any case where the functions of the Department of Environment, Food and Agriculture are delegated by the Minister for Environment, Food and Agriculture to persons comprising a body known as the Planning Committee by section 3(2) of the Government Departments Act 1987.
- (2) These Standing Orders shall come into operation on the date they are signed.
- (3) In these Standing Orders –

"Act" means the Town and Country Planning Act 1999;

"Committee" means the Planning Committee mentioned in (1) above;

"Department" means the Department of Environment, Food and Agriculture;

"Directorate" means the Planning and Building Control Directorate of the Department;

"Interested Person Status" has the same meaning as defined in the defined the Town and Country Planning (Development Procedure)(No2) Order 2013²

"Minister" means the Minister for Environment, Food and Agriculture; and

"Planning Officer" " includes any officer who is making a recommendation to the Committee in accordance with 5A(1) and/or any officer who has any delegated powers relating to the Town and Country Planning Act (1999).

¹ 1987 c.13

² SD 0238/13

2 Types of applications to be determined by the Planning Committee

- (1) The Committee may consider any planning application listed under the relevant following provisions of Part 2 (Development Control) and Part 3 (Special Controls) of the Town and Country Planning Act 1999 or the provisions of a development order or a development procedure order as it relates to that provision of Part 2 or Part 3:
 - (a) sections 10(1) and 10(2) (application for planning approval);
 - (b) section 10(6)(d) (reserved matters);
 - (c) section 15 (control of works affecting registered building);
 - (d) section 19(3) (demolition in conservation areas);
 - (e) section 22(2)(b) (controlling display of advertisements); and
 - (f) paragraph 3 of Schedule 3 of the Act (variation or discharge of conditions of registered building consent).

3 The conditions and circumstances regulating the determination of applications by the Planning Committee

- (1) Those applications falling within the following categories are to be considered by the Planning Committee except in the circumstance where the application is similar in nature to a previously approved application to which there are relatively minor differences-
 - (a) where the officer's recommendation is contrary to written submissions of members of the public that have been received by the planning officer where the level of such views is substantial*;
 - (b) where the officer is recommending approval and the Local Authority has made written representations objecting to the application on valid planning grounds, save for householder applications**;
 - (c) where it is recommended that an agreement under section 13 of the Act should be entered into;
 - (d) where an application recommended for approval is contrary to the provisions of the Development Plan;
 - (e) where an application for an extension to a dwelling or for a replacement dwelling in the countryside is over the 50% threshold as set out in the Development Plan and which is recommended for approval;
 - (f) where an application would result in a development of 8 or more residential units;
 - (g) where an application for development would create additional new floorspace of 500sqm or more, unless it lies within an area allocated for that purpose;
 - (h) where an application relates to property owned by the Minister, Departmental member or the Chief Executive of the Department or an employee of the Planning and Building Control Directorate or the Planning Policy section of the Cabinet Office or by a close relative of those persons;
 - (i) where an application which is subject to an objection from the Minister, Departmental member or the Chief Executive of the Department or an employee of the Planning and Building Control Directorate or the Planning Policy section of the Cabinet Office or by a close relative of those persons;

- (j) if an application is required to be accompanied by a formal Environmental Statement;
- (k) if a member of the committee (including the chair) has requested the application be referred to the committee for a decision; or
- (l) where the Director of Planning and Building Control, the Head of Development Management or the Senior Planning Officer considers that the proposal ought to be determined by committee.

NOTE:

- * Either 5 or more objections, or 3 or more objectors who have been recommended for interested person status. Objections need to be individually written correspondence from different households and not multiple copies of one letter; or a single petition.
 - ** Householder applications are defined within the fee order and are those which relate to the extension or improvement to a single dwelling house.'
- (2) The procedure mentioned in paragraph (1)(k) is as follows -
- (a) each week all members of the Committee will receive, by e-mail, a list of applications registered by the Directorate;
 - (b) any member of the Committee has a period of 10 working days within which to request the Committee Secretary (or Deputy Secretary), by email, that a particular application should be referred to the Committee; and
 - (c) the Committee member must provide a written reason on valid planning grounds for that particular application to proceed to Committee.

3A Quorum

- (1) No decision shall be made at a meeting of the Committee unless at least 3 members of the Committee are present who have not declared an interest in the relevant item.

4 Consideration of Planning Applications

- (1) The Committee must not consider an application for planning approval or consent unless the planning officer's report includes -
 - (a) a description of the proposed development;
 - (b) an analysis of the proposed development, relevant policies and impact(s), prepared by the planning officer;
 - (c) a summary of representations made; and
 - (d) a recommendations by a planning officer whether to -
 - (i) approve the application, including details of what conditions to impose, the reasons why such conditions are required and whether an agreement made under section 13 of the Act is necessary, as appropriate; or
 - (ii) refuse the application, including the reasons for such refusal; and
 - (e) a recommendation by a planning officer about which parties should have Interested Person Status.

- (2) The Committee may resolve to defer consideration of an application for planning approval or consent to a future meeting, including to allow for a site visit to take place.

- (3) In dealing with all planning applications, the Committee must have regard to any matter to which the Department is required to have regard under the Act, including (but not limited to) —
 - (a) section 10(4) (Committee must have regard to material matters);
 - (b) section 16(3) (Committee must have regard to preserving a registered building or its setting and any special features of buildings);
 - (c) section 18(4) (Committee must have regard to preserving or enhancing the character or appearance of a conservation area); and
 - (d) section 22(1) (Committee must have regard to the interests of amenity and public safety with regard to the display of adverts).

- (4) If the Committee decides not to accept a recommendation of the planning officer, it must —
 - (a) if it refuses the application, specify its reasons for refusal;
 - (b) if it approves the application, give reasons for the approval and details of the conditions to be imposed, the reasons why conditions are required and whether an agreement made under section 13 of the Act is necessary, as appropriate; or
 - (c) if it approves the application in accordance with the recommendation but decides to impose different conditions, or to differ in whether there is a requirement for an agreement made under section 13 of the Act, to specify its reasons for taking that course of action and to give details of the conditions to be imposed, the reasons why such conditions are required and whether an agreement made under section 13 of the Act is necessary, as appropriate.

- (5) The Secretary or the Deputy Secretary to the Committee must ensure the Committee's decision is recorded in the minutes of the meeting.

- (6) An agenda for each Planning Committee meeting must be made publically available at least 2 working days prior to the meeting and include a list of the applications to be considered at the meeting and, for each application, an officer's report which includes the information set out in 4(1)".

5 Chairman of the Planning Committee

- (1) The Chair of the Committee, if present, is to preside at meetings of the Committee. If he or she is not present, a member of the Committee shall preside for that meeting or part meeting as an Acting Chair.
- (2) The member of the Committee who is to be the Acting Chair, as required, at all future meetings until otherwise agreed, may be agreed at a meeting of the Committee at which all the Members are present.
- (3) In the event that the Chair or nominated Acting Chair are not present (or the latter has not been agreed), the Acting Chair shall be a member of the Committee who is present and is agreed by those members present at that meeting.

5A Officers

- (1) Each planning application may be accompanied by a verbal presentation to the Committee (which may include visual aids) by a Planning Officer who may outline such information as they feel is necessary, which may include confirmation of any changes which have taken place since the Agenda was published (for example the receipt of additional representations and the content of such representations) and whether they would suggest that the Committee defer the determination in order to carry out a site visit.
- (2) If, in light of information received since the Agenda was issued or the discussion during the meeting, the Planning Officer who presented an application is so minded, they may verbally amend their recommendation to the Committee and the recommendation as so amended shall form the basis for the procedures as set out in 4(1) and 4(4)
- (3) Any Planning Officer present at the meeting may offer further advice to Committee, including answering questions from the Committee Members.
- (4) Officers acting on behalf of the Department (who are not Planning Officers), may address the Committee at the discretion of the Chair.
- (5) Officers acting on behalf of other Government Departments or Statutory Boards (where the Government Department or Statutory Board is not the applicant or landowner) may address the Committee at the discretion of the Chair.
- (6) Notwithstanding the provisions of 5A(5), Officers acting on behalf of other Government Departments or Statutory Boards (including where the Government Department or Statutory Board is the applicant or landowner) may address the Committee where they have complied with the procedures set out in 6(1)1(a) and (b) and shall address the Committee in accordance with 6(2) and 6(3).
- (7) Notwithstanding the provisions of 5A(5) and (6), any Officer who is acting on behalf of the Department of Infrastructure may, at the discretion of the Chair, address the Committee to provide professional advice on highways matters.

6 Public Speaking

Registration

- (1) Members of the public (including local authority representatives, applicants and agents) attending a meeting of the Committee may address the Committee on a planning application where:
 - (a) the person has registered a request to speak on the planning application in accordance with the Department's published guidance; and
 - (b) the person has previously made written comments on the planning application which is the subject of the registration in 6(1)(a).

Speaking on behalf of a person registered to speak

- (2) Any person registered to speak may elect a representative to do so on their behalf.

Procedures for speaking

- (3) The procedures for public speaking will be as follows:
 - (a) If the Local Authority has requested to speak, they will be allocated one three-minute time slot. In addition there will be one three-minute time slot for a representative of those who are in opposition to the application, and one three-minute time slot for those in support of the application.
 - (b) Local Authority representatives may only speak as either the Local Authority or, where relevant, as the applicant. Preference will be given to the applicant and/or agent, if applicable, in respect of any person speaking in support of a planning application.
 - (c) Subject to the provisions of paragraph 1(a) and 1(b), if there are multiple requests to speak either in support of or in objection to a planning application, those persons can appoint one or a number of speakers to speak on their behalf and will be accordingly allocated a maximum of one three-minute time slot to speak on the application.
 - (d) The Chair will stop the address if the speaker goes over the allocated three minutes and/or if the speaker discusses non-planning matters.
 - (e) If a person who is registered to speak does not appear before the Committee, the Chair may at their discretion reallocate the time to another speaker who has previously registered to speak.
 - (f) Speakers who are not the applicant or agent cannot circulate or make reference to documents, photographs or other information at the Committee meeting unless they have been received as part of a duly made representation. Speakers who are the applicant or agent may only make reference to documentation which has been submitted as part of their application. Any Speakers may give a transcript or note of their intended speech to the Secretary of the Committee, to aid minute taking, but such documentation will not, in itself, be considered by the Committee.
 - (g) Speakers can only speak about the merits of the planning application proposal upon which they have registered an interest to speak.
 - (h) Speakers cannot speak about enforcement matters or items not on the agenda.
 - (i) In addition to the three minute slot as set out in 3(a) registered speakers may respond to questions from the Committee to provide factual clarification of any matter relevant to the planning application.

Additional Questions

(4) In spite of the provisions set out in 6(1), 6(2) and 6(3), Members of the Committee may, at the Chair's discretion, ask questions and/or invite questions and/or comments from any person present at a meeting of the Planning Committee in order to clarify points of fact which are relevant to the planning application being considered and any person who is so questioned or invited may respond accordingly. The minutes shall record the identity and contribution of any person who speaks based on this provision.

7 Voting

- (1) Every application for planning approval or consent for consideration before the Committee must be decided by a majority of the votes of the members present and voting on that application.
- (2) In the case of an equality of votes, the person presiding at the meeting or for that planning application shall have a second or casting vote.
- (3) A member of the Committee must not vote on a planning application if the member has made a declaration of interest under Section 8 (Declaration of Interest)
- (4) Subject to Section 8 (Declaration of Interest), a member of the Committee may abstain from voting on a planning application only where he or she has not visited the site under Section 9 (Site Visits) and considers that as a result he or she does not have sufficient knowledge of the site or the proposal to vote.

8 Declaration of Interest

- (1) A member of the committee must not act or vote in relation to any item of business upon which the member has a direct or indirect conflict of interest or duty (personal or pecuniary).
- (2) A member, having declared a conflict of interest, must immediately remove themselves from the meeting for the consideration and determination of that item of business only.

9 Site Visits

Purpose of a site visit

- (1) The Committee may undertake a site visit to:
 - (a) enable its members to gain a better understanding of the context of the development and the application site;
 - (b) provide a greater understanding and awareness of the surrounding land and building(s); and
 - (c) clarify any issues and/or objections which may have been raised.

Request to defer a planning application to allow a site visit

- (2) If a Committee member requests that the determination of an application is deferred pending the undertaking of a site visit, that request must be supported by a vote of the Committee and recorded in the minutes together with reasons for the decision and the time and date of the site visit.

- (3) Site visits that result in the deferral of an application must be undertaken only in the circumstances where —
 - (a) the impact of the development is difficult to visualise;
 - (b) the comments of the applicant or objectors cannot be adequately expressed in writing or through the medium of photographs; or
 - (c) there are other justifiable reasons why a visit is necessary.
- (4) Any Committee member who cannot attend the site visit may abstain from voting on a planning application in accordance with Section 7(4).

Site visit attendees

- (5) The Committee must conduct the site visit in the presence of the planning officer; and
- (6) the applicant and/or agent and any third parties (to include the landowner and any interested persons) may be present, if appropriate.

Procedures at a site visit

- (7) The site visit proceedings shall be conducted as follows —
 - (a) the Chair of the Committee, if present, shall preside at the site visit, and in their absence, a member of the Committee chosen by the members present shall preside;
 - (b) the Chair may request, if appropriate, the planning officer to provide a summary of the proposal and to display the application plans or drawings;
 - (c) the Chair may invite, if appropriate, the planning officer to provide factual clarification of any matter relevant to the planning application which is the subject of the site visit which may include but is not limited to:
 - (i) the distance (in meters) of the proposed building from the site boundary;
 - (ii) the land use designation of the application site; and
 - (iii) if any planning application or planning approval has effect on any adjacent site or land.
 - (d) the applicant and/or agent or any third party may address the Committee but only to provide factual clarification of any matter relevant to the planning application which is the subject of the site visit;
 - (e) the members must not discuss the merits of the application, make any determination or make any comment capable of being perceived as a comment on the appropriateness of the proposal during the site visit that being the case only when the item of business is brought back to the Committee meeting for consideration.

10 Revocation of earlier standing orders

These Standing Orders revoke those numbered 03/16 dated 13 October 2016 (corrected 29 January 2018).

Made: 1st May 2018



**Hon. G Boot, MHK
Minister for Environment, Food and Agriculture**