

PROTOCOL FOR THE OPERATION OF OPEN PLANNING MEETINGS OF THE BUILDING & DEVELOPMENT CONTROL COMMITTEE

Introduction

The following rules for open meetings of the Building and Development Control Committee will apply when planning applications are determined, with effect from 1st July 2017. This protocol provides detailed advice and guidance for the public on the procedure and arrangements for public speaking.

Arrangements for Open Planning Meetings

The first item on the open planning meeting will be to ratify decisions by the planning officer to approve planning applications made under the following fast track procedure.

Fast Track Procedure

To speed up minor planning applications, uncontentious and minor applications will be dealt with under a fast track procedure where all the following criteria are met:

- (a) no objections are received within the 21 day period after advertising the application in the Alderney Gazette , by public notice and by Site Notice (where required) and;
- (b) the application is fully compliant with the Land Use Plan policies (and SPG's issued by BDCC to explain and provide further information about those policies) and;
- (c) the application is fully compliant with the Building & Development Control (Alderney) Law 2002 and subordinate legislation (Ordinances) issued under that law and;
- (d) the application is considered by the planning officer to be either minor or uncontentious and;
- (e) the application is recommended for approval with no conditions applied.

For those applications to which the fast track procedure applies, after the expiry of the 21 day advertising period, the planning officer will issue a report to all members of the Committee by email in advance of the open Committee meeting together with copies of the application documents. A single Committee member may request the fast track procedure be **NOT** applied to any such application which must then be referred to the political members of the Committee at the open planning meeting for determination.

(1) If no Committee member makes such request within 5 days of receiving the planning officer's report, an approval notice will be issued to the applicant and the details will be included on the agenda of the open Committee meeting, but only for the purpose of formal ratification of the decision.

(2) All planning applications which are to be determined by the members of the Building & Development Control Committee will be decided at an open planning meeting which is held

in public. The open planning meetings will normally be held on a six- week cycle. Where, exceptionally, commercially sensitive or other confidential material is being considered as part of the decision-making process the Committee will reserve the right to consider that part in camera.

(3) The agenda for the open planning meeting listing the Planning applications to be decided at the meeting will be published by public notice and on the States website five working days before the meeting. Committee members will receive a printed agenda pack providing copies of the Planning officers report, the drawings and written submissions which accompanied the application and copies of the letter and emails of representations received from third parties (or standard objection forms) up to five working days before the meeting.

(4) Information will be published on the States of Alderney website in respect of each application listed, and will also be made available for inspection at the Planning office during normal working hours.

(a) The application form with accompanying drawings and submissions

(b) The planning officer's report

(c) Letters of representation received (or standard objection forms) from third parties up to five working days before the meeting.

Personal information will be redacted from the published copies. The name(s) of the applicant, their agent, the application particulars and the property address which are required to be in the public register, will always be published.

(5) At the open planning meeting, the planning officer will introduce each planning application, summarise the material planning considerations and present their recommendations on the application. The Committee members may ask questions of the officer for clarification, when invited to do so by the Chairman.

(6) After the planning officer has introduced the application and answered member's requests for clarification, the Chairman will ask whether any person present wishes to speak against the application. Any third party objector who has complied with the requirements of paragraph 21 of this protocol, may address the meeting, strictly in accordance with the rules in this protocol. The Committee members may ask questions of the objectors for clarification, when invited to do so by the Chairman.

(7) After third party objectors have spoken, the Chairman will ask whether anyone wishes to speak for the application, usually the applicant or agent. The applicant / agent and any third party representing in support may briefly address the meeting strictly in accordance with the rules in this protocol. The Committee members may ask questions of the applicant or agent or person representing for clarification when invited to do so by the Chairman.

(8) The time limit for persons speaking, four minutes, will be strictly enforced.

(9) On conclusion of the allocated time for speakers for and speakers against the application, the Committee members may seek clarification from the planning officer.

Should the Committee seek advice or clarification from the planning officer in response to comments made by speakers, speakers shall not comment further unless specifically requested to do so by the Chairman.

(10) The Committee members will then each be asked by the Chairman to give their individual comments on the application and after all members have spoken, a vote will be taken. Members of the Committee will vote, whether to approve, reject or approve with conditions attached. In the event of a tied vote the Committee Chairman may use a casting vote at his / her discretion. The Committee may also decide to defer an application for further information or revision of the application.

(11) Where a decision is deferred from an open planning meeting of the Committee, at the discretion of the Chairman, the application may be either included on the agenda for further consideration at a second open planning meeting, or may be processed by written notification of a later decision of the Committee.

(12) In the event of the deferred application being considered at a second open meeting, the item will be placed at the end of the agenda. Where there were speakers for or against the application at the first meeting, public speaking may be allowed at the second meeting at the Chairman's discretion. Follow up emails and letters from third parties which repeat the substance of previous written and spoken objections at the first meeting, will be considered lobbying and will be disregarded. Only new representations received or which address new issues or the matters which were requested for clarification or required additional information by BDCC in deciding to defer the application, will be considered.

Restrictions to be applied

(13) Lobbying of Committee members is not permitted before or during the meeting and no written or other material (except that provided in advance by the planning officer) will be accepted at the meeting. The Committee will reach its decision on the material that is before it at the meeting. The introduction of new material which has not been considered beforehand by the Committee or disclosed to the applicant or any objectors beforehand could be unfair. In the event of this happening the application may be deferred for a further open planning meeting to provide an opportunity for that material to be considered all parties.

(14) Committee members may only take into account considerations material to planning, in particular those within the terms of the Building and Development Control (Alderney) Law, 2002 and Ordinances may under law, and may not take into account any matter which is not material to planning.

Matters which are not normally planning considerations and which, therefore, cannot normally be taken into account include:

- (a) Effect on land or property values
- (b) The character or identity of the applicant or objectors
- (c) Boundary or property disputes

(d) Issues of commercial competition

(e) The status of property under other legislation

(f) Moral or ethical issues or judgements

(g) Weight of numbers of public opposition or support in itself (as opposed to relevant planning arguments for such views)

(h) Political manifesto commitments.

(15) Determination of applications may be deferred by the Committee in order to request further information, or to clarify any matter, or if the Committee has concerns over the accuracy of any information presented to it.

(16) An informal site visit may take place prior to formal consideration of an application at an open planning meeting where it is beneficial for the Committee to see the physical attributes of the site and its setting which are part of the material considerations in the case. Site visits may also be conducted after the Committee has considered the application. It may defer deciding the application to make a site visit. Where the Committee has deferred deciding an application from an open planning meeting in order to visit the site, and the visit has been conducted, the Committee may determine the application without referring the application for consideration at another open planning meeting. Interested parties will then be notified of the Committee's decision by letter.

Members of the public will not be invited to attend site visits. Lobbying of Committee members by applicants or objectors during site visits will not be permitted.

(17) A written record of the open planning meeting will be kept in accordance with States of Alderney rules.

(18) Open planning meetings may be attended by representatives of the media. Interviews with applicants or their agents, or with any member of the public present, are not permitted within the meeting room, while the meeting is in progress.

(19) Any person who behaves in a manner which is disruptive to the open planning meeting will be required to leave by the Chairman.

Applicant's and / or agent's entitlement to speak

(20) The applicant and/or their agent of a planning application which is under consideration by the open planning meeting is entitled to speak at that meeting to expand and explain their application and answer any questions from Committee members, subject to the rules in this protocol.

Notification of third party's intention to speak

(21) Any member of the public or States member is entitled to speak at an open planning meeting in respect of an application under consideration at the meeting, provided that they have submitted a written representation within the period specified for publicity of that

application under section 10 of the Building and Development Control (Alderney) Law 2002 or have notified the Planning Office of their intention to speak by close the previous day of the open planning meeting.

(22) The notification of the intention to speak must not be accompanied by any additional written submissions or other material.

(23) The period for speaking will be strictly limited to four minutes per speaker.

(24) Where more than one speaker is speaking either for or against the application, speakers must avoid unnecessary repetition.

Points which can be made

(25) Points must be made orally. The Committee will not receive any additional written or other submissions during the meeting.

(26) Oral submissions to the Committee should be confined to matters relevant to planning and to the application to be decided. Non-planning matters including personal or private matters should not be raised. Examples of matters which are generally not relevant to planning are listed in paragraph 14 above.

(27) Members of the public submitting written representations to the Committee or exercising the opportunity to speak are strongly advised to avoid making personal remarks which might be construed as defamatory, as BDCC has been advised that the qualified privilege in States Committee meetings extends ONLY to States members, and will not protect the public from any risk of litigation.

(28) The Chairman or Vice Chairman presiding at a particular open planning meeting may, in exceptional circumstances, alter, waive or vary the procedures in this protocol where they consider this is necessary in the particular case to ensure fairness and to enable proper and effective debate.

Revised for Alderney and adapted from Guernsey Development & Planning Authority and States of Jersey Planning Committee, protocols for Open Planning meetings

Revised - 23 June 2017