

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Borough Solicitor
Title: Member Speaking at Planning Committees

1.0 Purpose of Report

To propose an amendment to the Constitution in order to apply a Planning Public Speaking Protocol to Members' general speaking rights at Planning Board and Committees.

2.0 Recommendations

That Council be recommended that

- (1) Procedure Rule 38 of the Constitution be amended to add a new paragraph 38.4, "At the Planning Board and Planning Committees, Members' Speaking Rights are subject to the Public Speaking Protocol in Part 5 of the Constitution"; and
- (2) the Public Speaking Protocol set out as an Appendix to this report be added to the Constitution.

3.0 Financial Implications for Transition Costs

None

4.0 Financial Implications 2009/10 and beyond

None

5.0 Legal Implications

Member speaking rights are contained in the Constitution. The Council granted power to the Strategic Planning Board to adopt a Public Speaking Protocol for the Board and Planning Committees. The Protocol approved also covers Members' speaking rights. For consistency and clarity, the Constitution and Protocol should be brought into line.

6.0 Risk Assessment

Provided that Members' speaking rights are clearly set out in relation to the Planning Board and Committees, there are no associated risks.

7.0 Background

Procedure rule 38 in the Constitution provides that any Member may attend Committees to which they have not been appointed. "The Member has no right to vote, but may speak with the consent of the chairman."

The Council delegated power to the Strategic Planning Board to adopt working protocols including a Public Speaking Protocol. On 4th March 2009 the Board adopted the Protocol at Appendix A. It gives enhanced speaking rights to a wide range of speakers who can address the Board and Committees before each application on the agenda.

The Protocol sets out rules to facilitate the smooth running of the meeting. It asks all speakers, including Members, to give the Democratic Services Section 24 hours written notice, to register with them 10-15 minutes before the meeting begins and to keep their speech to 3 minutes (5 minutes for ward councillors).

In exceptional circumstances and with the Board/Committee's approval, the Chairman may extend the speaking period for some or all speakers or to allow more speakers if appropriate.

These rules have worked at the former Macclesfield BC for many years and help the Chairman prepare for and regulate the length of meetings, which can be substantially extended by the exercise of the rights.

8.0 Conclusion

The Protocol differs from the general rule in the Constitution in two respects. First, it gives Members a right to speak, instead of relying solely on the Chairman's discretion. Secondly, it asks Members to abide by the same rules as the general public eg: 24 hours notice and a time limit for speaking, with flexibility to extend if appropriate. These changes are appropriate, given the volume of business transacted by the Planning Board and Committees. For consistency and clarity the general rule in the Constitution should be amended to take account of them and the Protocol should be appended to the Constitution for ease of reference.

For further information:

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Background Documents:

Cheshire East Borough Council Constitution: available on the Council's website or at Westfields, Sandbach



PUBLIC SPEAKING RIGHTS AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- a) The Strategic Planning Board and Planning Committees have to make decisions on the merits of each individual application, upon the basis of what is in the Development Plan and other material considerations. All written representations made to the Council will be taken into account in the Officers written report to Committee, but this procedure allows members of the public and Councillors who are not members of the Strategic Planning Board or Committees to attend a Strategic Planning Board or Planning Committee meeting and speak for or against an application prior to the Strategic Planning Board or Planning Committees making a decision about a planning application.
- b) The Strategic Planning Board normally meets at Westfield at 2.00 every 3 weeks
- c) The Planning Committees meet at the Crewe Municipal Buildings, Earle Street, Crewe, CW1 2BJ and at the Macclesfield Town Hall, Market Place, Macclesfield, SK10 1DX every 3 weeks
- d) The agenda for each Strategic Planning Board or Planning Committee meeting is available five working days before the meeting and is available via the Council's website. Interested groups and individuals should keep themselves informed about when a planning application will come to the Strategic Planning Board or Planning Committees. A list of meetings can be obtained from the Council Offices and officers will be able to advise on the progress of applications.

PROCEDURE:

1. WHO CAN SPEAK AND FOR HOW LONG

- 1.1 The following individuals/groups are eligible to speak
 - Objectors
 - Applicants or their agents
 - Supporters
 - The relevant Parish or Town Council
 - Local representative groups/Civic Society (where not covered by any of the above categories)
 - The Ward Member if they are not on the Board/Committee
 - Members who are not on the Board/Committee and are not the Ward Member

- 1.2 Each group identified shall be entitled to speak for a period of up to three minutes. If there is more than one person wishing to speak, from a particular group e.g. objectors, people are encouraged to consult each other and agree how to share their 3 minutes. The time limit will not be extended unless a specific extension of time is agreed by the Chairman. Where a listed building application is involved no extra time will be provided.
- 1.3 In order to be fair to all parties, no presentation aids will be permitted. Similarly the circulation of information, photographs and/or plans at the meeting will not be allowed.

2 HOW TO SPEAK AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- 2.1 It is necessary to inform, in writing (email, fax or letter), the Democratic Services Section of an intention to speak at a Strategic Planning Board or Planning Committee meeting no later than 12.00 noon the day before.
- 2.2 Speakers should arrive for meetings approximately 10-15 minutes prior to the start of the meeting in order to register with the Democratic Services Officer.
- 2.3 A statement to the Strategic Planning Board or Planning Committee should only refer to planning issues, for example:
 - exterior design, size, appearance, layout, etc
 - residential amenity
 - highway safety
 - character of the area
 - trees and historic buildings
 - planning policy (Local Plan/Structure Plan)
 - Government guidance
- 2.4 The Strategic Planning Board or Planning Committee cannot take into account non-planning issues for example:
 - boundary disputes/property rights
 - personal comments about any individual
 - loss of property value or loss of view
 - matters covered in other laws
- 2.5 Speakers are reminded of the law relating to slander. If, at the meeting, they say something which is not true about another person, they could be at risk of legal action. Further, Race Relations and Human Rights legislation will not allow any discriminatory comments for example race, religious beliefs or disability.

2.6 The order of speaking at the meetings of the Strategic Planning Board and Planning Committees is as follows -

- Announcement of the item by the Chairman
 - Introduction and description of the application by the Planning Officer, including an update of the Committee report and highlighting of the key issues
 - Ward Councillor(s) if application 'called in' or if not Committee Member (5 mins in total)
 - Members who are not on the Board/Committee and are not the Ward Member (3 mins)
 - Parish/Town Council representations (3 mins)
 - Civic Society/Local Representative Groups (3 mins)
 - Objectors' representations (3 mins)
 - Applicants/supporters' representations (3 mins)
 - Further comments by Planning Officer
 - Ward Councillor if a Member of the Board/Committee
 - Board/Committee Members debate and decision taken
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2.7 At the Chairman's discretion, members of the Strategic Planning Board or Planning Committee may ask, through the Chairman, a visiting speaker (not Council Member) to clarify an issue after a statement is made. The Chairman may also ask that questions of fact are answered by any speakers during the Members discussion to clarify matters. Speakers will not be permitted to ask questions of the Strategic Planning Board or Planning Committee or other speakers or to interrupt the Members discussion on an individual planning application.

2.8 In exceptional circumstances, the Chairman may (with the approval of the Board or Committee) extend the speaking period for some or all speakers or allow more speakers if appropriate. This power will be treated with caution for controversial or complex schemes and if additional time is granted to objectors, a similar allowance will be given to supporters and/or the applicant.

3 AFTER THE DECISION

3.1 Speakers are asked to respect the decision made by the Strategic Planning Board or Planning Committee during the course of the meeting. The Strategic Planning Board or Planning Committees decision is final but the applicants do have the right to appeal to the First Secretary of State if their application is refused or if conditions are attached which they do not like. Objectors do not have the right to appeal a decision to the First Secretary of State but they can seek to have a decision quashed by an application to the High Court by way of judicial Review.

3.2 If an application is deferred to a future meeting for consideration, speakers will be required to register to speak for that meeting in accordance with this procedure note.

3.3 This scheme comes into effect on 1 April 2009 and will be monitored and reviewed by the Strategic Planning Board initially after 6 months.

Cheshire East Borough Council

Public Participation at Strategic Planning Board and Planning Committees

Who can speak?

The following individuals/groups are eligible to speak

- Objectors
- Applicants
- Supporters
- The relevant Parish or Town Council
- Local representative groups/Civic Society (where not covered by any of the above categories)
- Members who are not on the Committee and are not the Ward Member.

How much time is allocated to each group?

A period limited to a total of 3 minutes. If there is more than one person wishing to speak, people are encouraged to consult each other and agree how to share their 3 minutes. This may be the most effective way of presenting views. Where a listed building application is involved no extra time will be provided.

How do you arrange to speak at the Planning Committee?

Please inform, in writing, Democratic Services, by 12.00 noon on the Tuesday (the day before the meeting).

When should you arrive for the meeting?

Speakers are *normally requested to arrive by: 1.45pm, prior to the start of the meeting at 2.00pm so that they can register with the Democratic Services Officer.

**Please note: These times may vary as the agenda dictates. Please contact the Democratic Services Section to confirm times/agenda order.*

What is the order of speaking at the meeting?

The order is as follows:

- Announcement of the item by the Chairman
- Introduction by the Planning Officer, who will update the Committee report and highlight the key issues
- Ward Councillors, if application 'called in' (call-in applies to Planning Committee only) or if not a Committee Member (5 minutes in total).
- Parish/Town Council representations (3 minutes)
- Civic Society/Local Representative Groups (3 minutes)
- Objectors' representations (3 minutes)
- Applicants/supporters' representations (3 minutes)
- Further comments by Planning Officer

What are the possible outcomes of the meeting?

The decision may be:

- to approve the application
- to refuse the application
- to defer for information/negotiations
- to defer for a site visit by the Committee.
- to refer the application from the Committee to the Strategic Planning Board.

What may the statement to the Committee include?

Only refer to relevant planning issues, e.g.:

- exterior design, size, appearance, layout, etc
- residential amenity
- highway safety
- character of the area
- trees and historic buildings
- planning policy (Local Plan/Structure Plan)
- Government guidance
- The Committee cannot take into account non - planning issues e.g.:
- boundary disputes/property rights
- personal comments about any individual
- loss of property value or loss of view
- matters covered in other laws

Will the use of presentation aids be allowed?

In order to be fair to all parties, no presentation aids will be permitted. Similarly, the circulation of late information, photographs and/or plans at the meeting will not be allowed.

Will there be an opportunity for questions?

At the Chairman's discretion, members of the Committee may ask a visiting speaker to clarify an issue after a statement is made. However, speakers will not be permitted to ask questions or interrupt the Members' discussion on an individual planning application.

Where are meetings held

Strategic Planning Board – Westfields, Sandbach
Northern Planning Committee – Macclesfield Town Hall.
Southern Planning Committee – Municipal Buildings, Crewe.

Agenda

Agendas for the Committee are available on-line, or from the Democratic Services Officer one week before the meetings

Contact

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Also see the Council's website: www.cheshireeast.gov.uk