

PROTOCOL FOR THE OPERATION OF OPEN PLANNING MEETINGS OF THE DEVELOPMENT & PLANNING AUTHORITY

Introduction

The following Protocol relates to the Open Planning Meetings of the Development & Planning Authority. Open Planning Meetings were first introduced in Guernsey on 29th March, 2011. Provision has been made for public speaking at the Open Planning Meetings from 15th November, 2011.

Most planning applications received by the Authority are processed and determined by planning officers under the Authority's approved scheme of delegation. Typically, more than 95% of applications are determined under delegated authority. However, in cases which fall outside the delegated powers conferred by this scheme the applications are referred to the political Members of the Authority for determination.

The Development & Planning Authority supports wide public debate about planning applications and believes that people may be able to make their views better known if they are not limited to making comments only in writing. For those applications considered at Open Planning Meetings, public speaking allows applicants and third parties who have submitted comments a chance to present their views orally to the Authority.

This protocol provides guidance for the public on the arrangements for and procedure at the Open Planning Meetings and on the arrangements for public speaking.

Arrangements for Open Planning Meetings

1. All planning applications which are to be determined by the political members of the Development & Planning Authority will be determined at an Open Planning Meeting which is held in public. The Open Planning Meetings will normally be held on a monthly cycle. Where commercially sensitive or other confidential material is being considered as part of the decision-making process the Authority however reserves the right to consider that part in camera.
2. The agenda for the Open Planning Meeting, along with the planning application report relating to each application to be considered, will be made available five working days before the meeting on the States website and in hard copy at the Planning Service's offices. The planning application report will contain a summary of consultation responses and of any representations received on the application from third parties.

Procedure at Open Planning Meetings

3. The Planning Service's professional planning officers will introduce the development proposals, summarise the material planning considerations and present their

recommendations on the applications to be determined at the Open Planning Meeting. The Authority members may ask questions of the officers and will debate each application before the Authority reaches its decision.

4. Since 15th November, 2011 there is an opportunity for public speaking at the Open Planning Meetings in accordance with paragraphs 13-21 below.
5. Lobbying of Authority members is not permitted before or during the meeting and no written or other material (except that provided by the Planning Service's officers) will be accepted at the meeting. The Authority will be reaching 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 Authority or disclosed to the applicant or any objectors beforehand could be unfair and could lead to allegations of unfairness or bias.
6. Authority members may only take into account considerations material to planning, in particular those within the terms of the Land Planning and Development (Guernsey) Law, 2005 and associated Ordinances, 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:
 - Effect on land or property values
 - The character or identity of the applicant or objectors
 - Boundary or property disputes
 - How the application affects a private view (as opposed to the wider effect on public amenity which may include the effect on public views)
 - Issues of commercial competition
 - The status of property under other legislation (e.g. the Housing Control Laws)
 - Moral or ethical issues or judgements
 - Weight of numbers of public opposition or support in itself (as opposed to relevant planning basis for such views)
 - Political manifesto commitments.
7. Determination of applications may be deferred by the Authority in order to request further information, or if the Authority has concerns over the accuracy of any information presented to it.
8. A site visit may be arranged where it would be beneficial for the Authority to see the physical attributes of the site and its setting which are part of the material considerations in the case. A site visit may be beneficial where the physical attributes and setting are not readily capable of being appreciated from the documentary material before the Authority.

Site visits will normally be conducted after the Authority has considered the documentary material and heard submissions from planning officers and any interested parties eligible to speak at an Open Planning Meeting. This does not,

however, prevent site visits being made prior to formal consideration of an application at an Open Planning Meeting, at the Authority's discretion. If the Authority wishes to visit a site, it may defer deciding the application to do so. Careful consideration will be given to the need to avoid unnecessary delay to the planning process.

Where the Authority has deferred deciding an application from an Open Planning Meeting in order to visit the site, and the site visit has been conducted, the Authority will normally then be in a position to determine the application without returning the case for further consideration at another Open Planning Meeting. This is because the visit gives the Authority the benefit of considering issues, already before the original Open Planning Meeting, at the actual site so there will generally be no transparency or fairness issues requiring a further meeting and proceeding to a decision avoids unnecessary delay to the planning process. The Authority's decision will then be publicised on the States website and interested parties will be notified of the decision by letter in the normal way.

Members of the public will not normally be invited to attend site visits. Lobbying of Authority members or presentation of new material during site visits will not be permitted for the reasons noted in paragraph 5 above.

9. Should the Authority be minded to reach a decision which departs from the officer recommendation, the decision on the application may be deferred to enable further consideration or clarification of the planning issues or reasons which will form the basis of the Authority's formal decision. Where a decision on an application has been deferred in this way, and the decision is made later, the Authority's decision will be publicised on the States website and interested parties will be notified of the decision by letter in the normal way. The Authority's decision letter constitutes the actual grant or refusal of the application. In the interests of transparency, where the decision departs from the officer recommendation as set out in the published planning report for the application, a statement of the Authority's decision and the reasons for that decision will also be provided at the next Open Planning Meeting.
10. An independent written record of the Open Planning Meeting will be kept in accordance with States rules concerning the constitution and operation of States Committees.
11. The Open Planning Meetings may be attended by representatives of the media. However, no photography or recording of the proceedings is allowed, and no interviews are permitted with Authority members. Interviews with applicants or their agents, or with any member of the public present, are not permitted within the meeting chamber.
12. Any person who behaves in a manner which is disruptive to the Open Planning Meeting will be asked to leave.

Notification of intention to speak

13. Since 15th November, 2011, an opportunity to speak either in support of or against the application to be decided is afforded to any member of the public or States Deputy who:

a. has submitted a representation in writing within the period specified for publicity of that application under section 10 of the Land Planning and Development (General Provisions) Ordinance, 2007, along with the applicant and/or their agent for that application; and

b. who has notified the Planning Service in writing (by letter or by e-mail addressed to planning@gov.gg) of their intention to speak which is received by the Planning Service by 12.00 Noon two working days prior to the date of the Open Planning Meeting. (i.e. by 12.00 Noon on Monday for an OPM held on a Wednesday).

For the avoidance of doubt, both **a.** and **b.** above must be satisfied in order for the person concerned to be permitted to speak.

14. The notification to the Planning Service of the intention to speak must not be accompanied by any additional written submissions or other material, including any referring to the basis of the representation to be made orally, as there would be insufficient time for these to be properly assessed or circulated before the meeting.

Period for speaking

15. The period for speaking will be limited to four minutes per speaker. A reminder will be given before the end of the four minutes.

16. Where more than one speaker is speaking either for or against the application, subsequent speakers must confine their submissions to new points and not repeat points made by earlier speakers.

Points which can be made

17. Points must be made orally. The Authority will not receive any additional written or other submissions during the meeting for fairness reasons as these cannot be properly assessed, considered by others or circulated in time. You should not attempt to contact Authority Members in any way during the meeting other than through the allotted time for speaking so that the process is fair to all.

18. Oral submissions to the Authority 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 6 above.

19. On conclusion of the allocated time for speaking (four minutes) the Authority Members may seek clarification from the planning officers present

on any points made.

20. Should the Authority seek advice or clarification from the planning officers present in response to comments made by speakers, speakers shall not comment further unless specifically requested to do so by the Authority.
21. Where a decision has been deferred from a previous meeting of the Authority and there was an opportunity for public speaking at that meeting, the Authority may make its decision without returning the case for further consideration at an Open Planning Meeting. However, if following such deferral there are material alterations to the planning officer's report the case may be returned for further consideration at a second Open Planning Meeting where considered in the interest of transparency and fairness to do so. Public speaking may be allowed at the second meeting, at the Authority's discretion.
22. The President or Vice-President 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.

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