

# Motions, Amendments, Decisions and Conditions



Association of Democratic Services Officers



# Who makes planning decisions?

- Local Planning Authority: delegated or committee
- Secretary of State (call-ins)
- Appeals – the Planning Inspectorate
- Government – national infrastructure projects
- Greater London Authority
- Development Corporations
- And there is the role of the courts



# Planning decisions – the law

## 1990 and 2004 Acts

The LPA “may grant planning permission, either unconditionally or subject to such conditions as they think fit, or they may refuse planning permission”.

They “shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations”.

**Town and Country Planning Act 1990, section 70**



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# Decisions

- must be ones Committee is empowered to take.
- requirement to give reasons for refusal (for applicant's benefit if appealing)
- by a majority of those present - possible Chair's casting vote dependent on Council's Constitution.



# Motions

- Reports from Planning Officers will have recommendations.
- Committee member 'proposes' a motion (normally officer's recommendation).
- Needs to be seconded (by another member or the meeting)



# Amendments (1)

- After a motion has been seconded then an amendment can be moved.
- Basically proposes a change to a motion
- Sometimes an amendment can be accepted by the proposer (friendly/ altered)
- If amendment is seconded then it is debated ahead of the motion.



# Amendments (2)

- Must be relevant to the original motion.
- Voted upon one at a time, in order they are proposed.
- If lost then debate on original motion continues.
- If carried then the original motion becomes the substantive motion.



# Amendments (3)

Amendments can:

- Leave out words
- Leave out words and insert others
- Refer any motion, or issue or part of an issue to
- an appropriate body (If this is moved then no other amendment can be moved).

Amendments cannot:

- Amount to a direct negative of a motion or nullify the motion.





# Decision-making: key points for Committee

- the policies in the development plan
- other relevant policy considerations
- the results of technical consultation
- all other views – if material
- on its own merits, and in its particular context
- come to a view in the light of officer assessment and recommendation, and the debate



# Overturns/different decisions

- perfectly acceptable for Councillors come to a decision different to the recommendation
  - **provided that it can be justified on planning grounds, based on the Plan and other material considerations**
- Committee must give justified planning reasons for decision - **it can't be left to officers to work out later**
- but usually the officers are clear from the debate what the Committee's concerns are, and can put the final decision notice together in the appropriate language



# Refusing permission (1)

- are the reasons **lawful** (which includes being generally “reasonable”)?
- could you mount a credible case on appeal? Is there a sufficient “**evidential basis**” for the decision?
- would anyone reading the decision – especially the applicant – readily understand **why** permission has been refused?



# Refusing permission (2)

- are you able to describe the **harm** that would result if the development went ahead? And why conditions would not be sufficient to mitigate that harm?
- is it clear what the **policy support** is for the decision?
- have all the **other material considerations** been given the appropriate weight?



# Approvals

- A planning authority can grant permission unconditionally, or '*subject to such conditions as they see fit*' (and/or a S106 obligation)
- NPPF – use of conditions where can make an otherwise unacceptable development, acceptable
- Courts have determined that certain legal principles
  - Planning purposes only
  - Not be unreasonable/ ultra vires



# Planning Conditions

- NPPF: a condition must satisfy 6 tests:
  - necessary,
  - relevant to planning
  - relevant to the development permitted
  - enforceable
  - precise; and
  - reasonable in all other respects
- Planning Policy Guidance sets out these tests and key considerations
- Circular 11/95 – now rescinded (accept for the model conditions annex)



# Planning conditions

- ‘Grampian’ (type) conditions:
  - delayed unless a particular event has occurred
- All planning permissions are subject to time limits (3 years) for implementation, beyond which they lapse
- Approval of details (especially pre-commencement ones) – consultation on a default approval if not dealt with



# Reasons for conditions

- the LPA must “*state clearly and precisely their full reasons for each condition imposed, specifying all policies and proposals in the development plan which are relevant to the decision*”.
- must be as specific as possible – what does “*to safeguard the interests of residential amenity*” or “*to enable the local planning authority to control the development*” actually mean?
- there is a right of appeal against conditions – so explain and justify





# s106 planning obligations

- site-specific to that development
- used where it is not possible to use conditions
- often in mitigation of an impact, or to support provision of infrastructure or affordable housing
- tests: must be necessary, directly relevant, reasonable, fair and related in scale/kind to the development (statutory and policy)
- the use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold



# How do you minute meetings?

Meeting Started at 10:01am  
Meeting Ended at 10:56am  
Meeting lasted 55 minutes

