

2020 Planning Decisions Against Officer Recommendation Research Summary

Ashford Borough Council

Optional Deferral

*In cases where Members propose to make a decision contrary to officers advice, officers may **request** deferral (which would remain at the discretion of the Committee) but only in the following exceptional circumstances where the complexity of the case demands:*

- *In order to formulate proper summary reasons and/or appropriate conditions and/or planning obligations in relation to a grant of permission.*
- *In order to formulate effective full reasons in relation to a refusal of permission in the light of members' views at the meeting.*

Requests would be made only in exceptional circumstances where the issues arising are so complex that officers consider the Council's interests are best served by a deferral to allow time to prepare such.

In such cases the "first" Committee would make a resolution that it is minded to grant/refuse whilst the "second" Committee would make the formal decision and give reasons and agree conditions etc. This is necessary as a matter of law to avoid the situation of one Committee formulating reasons etc for a decision taken by a different Committee which would be legally problematic. (Minute No. 72/6/08 refers).

Canterbury City Council

Optional deferral

Planning Committees can make a decision which is different from the officer recommendation. However, certain steps should be followed before making a decision

which differs from the officer recommendation:

- a. *Record the detailed reasons as part of the mover's motion*
- b. *Adjourn the meeting for a few minutes for those reasons to be discussed and then agreed by the committee*
- c. *Where there is concern about the validity of reasons, consider deferring to another meeting to have the putative reasons tested and discussed.*
- d. *Conditions should be clearly understood before the Committee votes on applications to grant permission.*
- e. *Should the Planning Committee make a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file.*
- f. *Councillors should explain in full their planning reasons for not agreeing with the officer's recommendation.*

g. Pressure should not be put on officers to 'go away and sort out the planning reasons'. The officer should be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made.

Chichester District Council

Optional Referral (to Council)

When any planning application is being considered by the Committee, if, before any decision is made in respect of that application, a Committee member proposes that the decision on the application shall be made by the Council, and if, on a vote being taken by the Committee, there is a majority of votes in favour of the proposal, then the conclusion of the Committee on the planning merits of the application shall be treated as a recommendation by the Committee to the Council.

Dartford Borough Council

Optional deferral

If the Development Control Board makes a decision contrary to the Officer's recommendation (whether for approval or refusal), the Officer should always be given the opportunity to explain the implications of the contrary decision. Unless the Board's argument against the Officer's recommendations are very clear and substantiated on planning grounds, the application should be deferred to enable the Officer to draft a further report for a subsequent meeting of the Board, outlining the implications of making a decision contrary to the Officer's recommendation. The Board's reasons must be formally recorded in the minutes.

13.2.3 When a planning application has been deferred following a resolution of 'minded to approve' or 'minded to refuse', contrary to the Officer's recommendation, then at the subsequent Board meeting, the Head of Regeneration will have the opportunity to respond both in a further written report and orally, to the reasons formulated by the Board for granting or refusing permission. If the Board is still of the same view, then it will again consider its reasons for granting or refusing permission, and a summary of the planning reasons for that decision will be given, which reasons must then be formally recorded in the minutes of the meeting.

13.2.4 The Courts have expressed the view that reasons should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this e.g. a dwelling for an agricultural worker.

13.2.5 In the case of conditions which the Board wishes to add or amend, the Officer should be invited to draft the condition and either refer this to the Board for approval at a subsequent meeting, or agree the condition with the Board Chairman.

Dover District Council

No special process

Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

Harrogate Borough Council

Conditional deferral (solicitor's view)

Planning Committee is empowered to determine any application and development control matter unless such determination would;
(i) be contrary to an objective policy of the Development Plan and the Executive Officer Development Management and Building Control recommends refusal, or
(ii) where costs may be awarded against the Council (advice from the Solicitor to the Council may be given either before or after the vote is taken).
In such cases, the Solicitor to the Council will be the final arbiter and will advise that the application in question shall stand deferred and be brought to the next available meeting of the Committee for further consideration.
When the final decision is contrary to the recommendation of the Executive Officer Development Management and Building Control the Planning Committee must define the reasons for rejecting the recommendation and those reasons must be recorded in the minutes of the meeting.

St Albans City and District Council

Planning Referrals committee available instead of Planning Committee (Head of Service choice)

Have a separate Planning Referrals Committee for:

An application which raises district – wide issues or is particularly contentious may be referred by the Head of Planning and Building Control to the Referrals Committee.

Applications which materially depart from adopted planning policy.

Applications which are of a strategic nature and/or have cross-district boundary implications, including applications submitted in adjoining Districts, upon which this Council's views are sought.

An application referred from an Area Development Control Committee if a majority of Members of that Committee so decide.

Applications submitted by Members, officers or their close relatives.

Major applications submitted by or on behalf of the Council.

Major applications which affect land which the Council owns or in which it otherwise has an interest

Allocation of land in Part 2 Brownfield Register (grant of Planning Permission in Principle under the Town and Country Planning (Permission in Principle) Order 2017)."

Swale Borough Council

Conditional deferral by Head of Service

If the vote does not follow the officer recommendation to approve then:

- a. the Chairman will invite the Head of Planning to consider if the application should be deferred in accordance with Part 3 of the Constitution. If the application is deferred to a future meeting, the Head of Planning will advise Members of the prospects of such a decision being challenged on appeal and on the implications of a cost application being made against the Council.*
- b. If the decision is not deferred to a next future meeting, a further motion must be made to refuse the application. Before voting on this new motion:*
 - i. The Chairman will give the planning officer the opportunity to explain the implications of any decision contrary to his/her recommendation.*

- ii. The Chairman will remind the meeting that the courts have expressed the view that the Committee's reasons for refusal should be clear and convincing, capable of articulation and open to public scrutiny and be material planning reasons. The precise wording of the reasons for refusal must be clearly defined before the Committee votes on the motion. The Chairman will propose a short adjournment of the meeting to allow officers to draft the framework wording rather than leaving the reasons to the officers to draft following the meeting, and to provide delegated authority to the Head of Planning to make any necessary detailed wording changes. A detailed minute of the Planning Committee's reasons (which should be full, clear and relate to material planning considerations) should be made by the Democratic Services Officer and a copy placed on the application file. If the vote is passed then planning permission will be refused subject to the issue of the decision notice.*

Where the vote does not follow the officer recommendation to refuse:

23. If the vote does not follow the officer recommendation to refuse for the reasons given in the report, the Chairman will invite the Head of Planning to consider if the application should be deferred in accordance with Part 3 of the Constitution and reported back to a future meeting.

- a. A further motion must be made to approve the application with delegated authority given to the Head of Planning to impose suitable conditions;*
- b. If the vote is passed then planning permission will be **approved** subject to the issue of the decision notice*