

MALDON DISTRICT COUNCIL PLANNING APPEALS PROTOCOL**1. ROLE OF MEMBERS IN COMMITTEE PLANNING APPEALS****1.1 Householder Appeal**

1.1.1 The Member role is a collective Committee responsibility given that the critical factor with householder appeals, which do not involve providing any additional supplementary statements, is to ensure that the Committee's reasons for overturning Officer report recommendations are clear and based on sound planning reasons.

1.2 Member Involvement in Written Representation, Informal Hearing & Public Inquiry Appeals

1.2.1 Where the Committee overturns a recommendation, in addition to agreeing the reasons for refusal it would be sensible for the Committee to identify which member(s), subject to being suitably briefed, should be involved with any subsequent appeal to help strengthen the Council's case. There are three options available to Committee any of which may be selected at the time the Committee decision is taken and thereby recorded in the Minutes. The Member(s) nominated by Committee to engage with any subsequent appeal include:

- The Chairperson of the Committee.
- The Chairperson of the Committee, and a local ward Member.
- The proposer /or seconder of the motion at Committee.

1.2.2 It should be made clear that the nominating of a Member is not mandatory and entirely at the discretion of the determining Committee. Where a Member is nominated it is important that he/she understands the nature of the role as set out below, and that their appearance at a hearing or inquiry will be wholly as a representative of the Council to support the case around the Committee's decision.

1.3 Written Representation Appeal

1.3.1 Written representation appeals are the quickest and simplest appeals requiring Member involvement. They require a statement and site visit but these appeals are usually for smaller scale development such as a single dwelling or change of use.

1.3.2 Where the Committee overturns the recommendation the nominated Member will be engaged with the following:

- Letter sent to advise the nominated Member about the appeal, the name of the case officer and the date the Statement is due;
- Nominated Member should liaise with the case officer if required to discuss the policies, content to provide the outline for the Council Statement and cost claim (if relevant). Members' comments need to be made in writing to the case Officer.
- Typed statement with any necessary appendices to be prepared by the case officer. The nominated Member to review the Council's statement and make amendments where required and send back to the Officer.
- Nominated Member to be advised of the date of the site visit.

1.4 Informal Hearing Appeal

1.4.1 Where the Committee overturns the recommendation the nominated Member(s) will be engaged with the following:

- Letter sent to advise the nominated Member about the appeal, the name of the case officer and the date the Statement is due;
- The nominated Member should liaise with the case officer if required to discuss the policies, content to provide the outline for the Council Statement and cost claim (if relevant). Member comments where required need to be made in writing and forwarded to the case Officer.
- Typed statement with any necessary appendices to be prepared by the case officer or planning consultant. The nominated Member to review the Council's statement and make amendments where required and send back to the Officer.
- Prior to the hearing, a meeting will be held between the Member and case officer and external witnesses and solicitor if necessary to consider the issues and the appellant's case.
- Nominated Member to attend the Informal Hearing either in an observer or as part of the Council team.
- Nominated Member to be advised of the date of the site visit.

1.5 Public Inquiry

1.5.1 Where the Committee overturns the recommendation the nominated Member(s) will be engaged with the following:

- Letter sent to advise the nominated Member about the appeal, the name of the case officer and the date the Statement is due.
- The nominated Member should liaise with the case Officer to discuss the policies, content to provide the outline for the Council Statement and cost claim (if relevant). Member comments where required need to be made in writing and forwarded to the case Officer.
- Typed statement with any necessary appendices to be prepared by the case officer or planning consultant. The nominated Member to review the Council's statement and make amendments where required and send back to the officer.
- Prior to the Public Inquiry, a meeting will be convened by the Council's legal representative between the Member, the case officer and any external witnesses / experts where necessary to consider the issues / tactics and the appellant's case.
- Nominated Member to attend the Public Inquiry either in an observer or as part of the Council team.
- Nominated Member to be advised of the date and attend the site visit where required.

1.6 Director of Service Delivery

1.6.1 In managing the Planning Appeal process the Director of Service Delivery will:

- Determine on a case by case basis where it would be necessary to either seek the nominated Member or an external planning consultant to represent the Council at either an Informal Hearing or Public Inquiry.
- Wherever practical seek to recover the Council's costs from applicants in preparing for and undertaking an appeal.
- Where required, request the local Ward Member assistance in circumstances where local knowledge is paramount and invaluable to the appeal including appeals that may arise from planning enforcement action and a refusal of a Certificate of Lawfulness.

1.7 The Role of Members as Private Individuals and Parish / Town Councillors

1.7.1 In situations where Members have clearly demonstrated a 'closed mind' on a planning application prior to consideration by Committee, they will not be permitted to be involved in the determination of that application or the subsequent appeal statement or process. In this case, or where a Member does not support the Council decision irrespective of the type of appeal, a Member may decide to make their submissions to an appeal which will be in either a personal capacity only or in their role as a Town / Parish Councillor.

1.7.2 It may be that on occasions electors may expect that their Ward Member(s) will attend a hearing or inquiry to further represent their interests and view. This can be seen as part of the democratic process, and a Ward Member wishing to do so should take the opportunity of first being fully briefed by Officers on all the issues the subject of the appeal.

2. REVIEW OF REASONS FOR REFUSAL

2.1 On occasions during the course of an appeal the Council may formally be requested by or on behalf of the appellant to reconsider its reasons for refusal. Any review shall be undertaken at the level the original decision was made and on report of the Director of Service Delivery only.

2.2 Where a committee has not formally reconsidered its reasons for refusal, and there is insufficient time to do so, then in order to ensure the Council minimises its exposure to cost awards against it, the Director of Service Delivery in managing the appeal process will act in consultation with the Leader of the Council, the Chairperson of the relevant Planning Committee and the nominated Member.