

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

24 October 2005

**Joint Report of the Director of Planning & Transportation
and the Chief Solicitor**

Part 1- Public

Matters for Recommendation to Cabinet - Council Decision

1 DEVELOPMENT CONTROL – PUBLIC SPEAKING

Summary

To seek endorsement for revised arrangements governing public speaking on planning applications.

1.1 Public Speaking

- 1.1.1 This matter was last reported to the Board in February 2005 as part of the Cabinet's Best Value Improvement Plan. Following that meeting it proved difficult to finalise the arrangements for registration to speak and so a further review of procedures has been undertaken.
- 1.1.2 One of the main issues of concern was that raised by the Chairs that there was a need for them to be as clear as possible who wished to speak at committee, whilst acknowledging a need to minimise unnecessary bureaucracy and arbitrary decisions about who could, or could not, speak.
- 1.1.3 We have considered various options and have concluded that, in light of prevailing law, it is not appropriate to, arbitrarily, limit the opportunity to register to speak by seeking a time limit after which speaking cannot be allowed. Therefore we consider that the right approach is to **strongly encourage** early registration but accept that this could take place up to 19:15hrs on the evening of the meeting. In practice this will prove little different to current practice, as the actual number of speakers is sometimes not revealed until speakers do, or do not, contact the Committee clerk on the night.
- 1.1.4 We have taken the opportunity to reflect on experience since the last report.
- 1.1.5 As was identified in the last report it has become apparent that there is some ambiguity in the 3-minute limit for speaking. For the avoidance of further doubt we believe that the limit should apply to a whole case report and not the number of applications dealt with in the report. This should now be codified as such.

- 1.1.6 One other matter that raises concern from time to time is the issue of speakers seeking to circulate written material and/or photographs at the meeting. While the adopted rules are clear that this should not occur and is made clear in the documents provided to potential speakers it has proved difficult on occasions to prevent some confusing situations just prior to the meeting. We remain of the view that the circulation of documents by third parties should not occur other than via the officers in advance (to be dealt with either in the report proper or the supplementary report). We also remain of the view that the circulation of documents by third parties on the night of the Committee, even if those documents previously submitted in comment of the relevant cases, remains a fertile ground for legal challenge from parties disgruntled with a decision – if only on grounds of perceived issues of natural justice. It is therefore suggested that this matter is reinforced in all literature and that Committee Chairmen rigorously enforce the rule.
- 1.1.7 Members will have noticed a subtle but significant change, over the last few months, in the structure of agendas. Each distinct report now has its individual reference number on the agenda. This presents the opportunity to introduce an item by its unique reference and address rather than risk confusion for the public gallery by the chair needing to read out lengthy and often detailed application descriptions.
- 1.1.8 There are a number of technical areas which, if the above changes are recommended to Cabinet would also be usefully addressed in the necessary changes to the Constitution, for Council to consider. I would suggest that this is best done by the presentation of a draft revised version of the Constitution for Cabinet to deal with:
- Members' decision in respect of this Report and
 - A review of the Constitution to ensure that there is a clear distinction between those matters that must be in the Constitution and those that should be in a revised Practice Note.

1.2 Recommendation

1.2.1 That Cabinet **BE ADVISED** to:

- Reaffirm that there be no limit to the number of speakers on any report
- Each speaker be allowed up to 3 mins. to speak
- 3 mins. speaking is the limit in respect of the individual case report and not per application reported
- Allow the right to register to speak until 19:15hrs on the night of the meeting.

Background papers:

Nil

Steve Humphrey
Director of Planning & Transportation

contact: Lindsay Pearson
ref: B11

Duncan Robinson
Chief Solicitor