

CARLISLE CITY COUNCIL

Report to:- **Development Control Committee**

Date of Meeting:- **15th July 2011**

Agenda Item No:-

Public

Title:- **RIGHT TO SPEAK POLICY**

Report of:- **Assistant Director (Economic Development)**

Report reference:- **ED.22/11**

Summary:- This report sets out the current administrative arrangements for registering rights to speak at Development Control Committee. It proposes changes to the procedure in order to be more customer focused and make a more efficient use of staff time.

Recommendation:-

1. That the Council's Right to Speak policy should be amended as follows:
 - A. Individuals can only register their right to speak after the committee papers have been published.
 - B. The deadline for registering a right to speak should be by noon on the day preceding the committee meeting.
2. That this procedure is implemented for all new planning applications validated from Monday 18th July 2011.
3. That Members approve the draft 'Right to Speak' leaflet.

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Assistant Director (Economic Development)

05 July 2011

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

1.0 Background

- 1.1 The current Policy dates from January 2009 and a number of issues have arisen over the years which need addressing in particular relating to the process rather than the 'right to speak' which are considered good practice. For instance information is often downloaded twice and several letters have to be dispatched to each individual who has registered. A more streamlined and less bureaucratic approach is to be considered and the particular areas of the policy to be reviewed involve the following:
1. Any objector to a planning application who wishes to exercise his/her right speak has to give written notice within the 21-day consultation period following the receipt of the application. If the request is given outside that timescale it is refused;
 2. A Parish Council can also ask to address Committee, subject again to giving notice within the 21-day consultation response period after receipt of the application.
- 1.2 As a result some people register the right to speak as a 'holding' mechanism. In addition numerous requests are received from objectors who wish to register their right to speak, but do so after the 21 day consultation period. This request is always refused. It is not always clear at the consultation period stage whether the application will be considered by Committee and by the time that has been decided, the 21 day period has often lapsed.
- 1.3 At present, there is a suite of 6 different letters solely for the purpose of advising individuals about the Right to Speak procedure (a specific letter is sent out depending on the circumstances of the application).
- 1.4 The administrative procedure for registering rights to speak is as follows:
1. When an objector requests a Right to Speak within the 21 day period, a different acknowledgment letter is sent to them rather than a "standard" acknowledgement letter. This letter is 11 pages long.
 2. The administrative staff have to enter the objector's details twice: once onto the planning database, then again onto a separate "Right to Speak" database which has to be updated several times before the Committee meeting takes place.

3. If a request is received after the consultation period has expired, a different letter is sent out to explain that their request is too late.
 4. After the expiry of the consultation period, and if the application is to be considered by Committee, a letter is then sent to the applicant or agent to advise them that the application is going to Committee and that an objector has requested a right to speak.
 5. If the application is to be determined under delegated powers, a different letter is sent to the objectors who have requested a right to speak to advise them accordingly.
 6. When the date of the particular Committee meeting is known, a letter is sent to the objector advising them of the date and confirming their right to speak. Another letter is sent to the applicant or agent confirming the final arrangements.
 7. At each stage, both the planning database and the right to speak database has to be updated accordingly by the technical staff.
 8. Despite the reports being available on the Council's website, copies of the individual committee reports are sent to each objector and applicant/agent, one week before committee. If the objectors have not given email addresses, then hard copies of reports are sent.
- 1.5 This procedure is time-consuming and labour intensive. It is apparent from the practices of other local planning authorities (including some within Cumbria) none appear to operate a scheme similar to that of the City Council. The current situation is not a good use of Member or Officer time or resources.

2.0 Other Authorities' Policies

2.1 The table below illustrates the difference between Carlisle City Council's Right to Speak policy and some other authorities:

	Carlisle City Council	Derby City Council	South Lakeland Council	Newcastle City Council	West Sussex County Council	Wiltshire County Council	Cheshire West and Chester
The earliest one can register	Start of consultation period	After committee papers are published					
The latest one can register	End of 21 day consultation period	3 days before committee	Noon, the day before committee	Noon, the day before committee	9.30, 2 days before committee	10 minutes prior to the meeting	4pm, the day before committee
How many can speak	5 objectors	2 objectors/ supporters	2 objectors	1 objector/ supporter	6 objectors/ supporters	3 objectors	2 objectors/ supporters
Length of time to speak	3 minutes	3 minutes	3 minutes	5 minutes	5 minutes	3 minutes	3 minutes

2.2 It is acknowledged that the table above is a small sample of planning authorities however there is a clear difference in the way that rights to speak are managed. Very few authorities operate the procedure Carlisle uses. It would be more cost-effective and streamlined to adopt the approach that the six authorities highlighted in the table have taken and that the Council's Right to Speak policy should be amended as follows:

1. Individuals can only register their right to speak after the committee papers have been published.
2. The deadline for registering a right to speak should be the day preceding the committee meeting (at a specific time e.g. noon).

2.3 This will negate the need for numerous different letters to be sent out at various stages, sometimes months before the committee meeting. It will also negate the

need to send out committee reports to objectors one week before committee. This will save time, resources, money and paper.

- 2.4 If members consider that these changes should be made it would follow that in order to explain these changes the current 15 page Right To Speak leaflet (attachment titled 2009) be replaced with a more user-friendly single page folded leaflet (attachment titled 2011).
- 2.5 There is no suggestion that the time period accorded for speakers to make their presentations is altered from the current 3-minute maximum per speaker as it seems to be an appropriate duration for speakers to explain their views of proposals and works well.
- 2.6 As the proposed changes would come into effect following the decision of this committee it is proposed that this new procedure would apply to applications which are validated from Monday 18th July 2011. Any existing Rights to Speak which have been registered and accepted would be honoured rather than a necessity to re-register. It would be the 30th September meeting of this committee before the impacts of this change would begin to take effect.
- 2.7 As a supplement to registering the rights to speak members will also note that Technical Officers are in attendance half an hour prior to the meeting to confirm the attendance of the rights to speak in order to assist with the running of the meeting. To date the schedule of committee items has been prepared acknowledging registered rights to speak and moving those items earlier in the schedule. Whilst this would not be possible in advance of the meeting the schedule would still be prepared recognising that those applications which have received significant public interest are likely to generate rights to speak and should be earlier in the schedule.

3.0 Recommendation

1. That the Council's Right to Speak policy should be amended as follows:
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 - B. The deadline for registering a right to speak should be by noon on the day preceding the committee meeting.
2. That this procedure is implemented for all new planning applications validated from Monday 18th July 2011.
3. That Members approve the draft 'Right to Speak' leaflet.

Scheme For Public Speaking At Development Control Committee

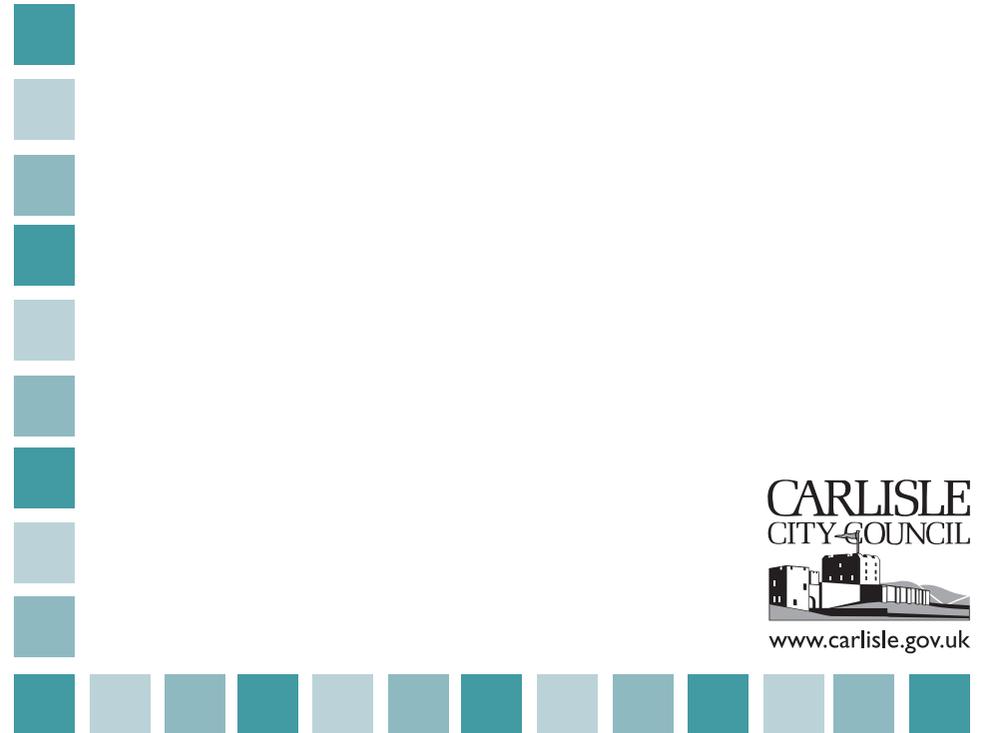
Further information

If you need to clarify the "Right To Speak" scheme or wish to discuss particular arrangements associated with a planning application that concerns you, please contact the Case Officer whose name, telephone number and e-mail address appears in all correspondence. General enquiries can also be made through the Development Control generic e-mail address: dc@carlisle.gov.uk

Carlisle City Council's Right to Speak Scheme (Adopted 13/01/09)



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refer the matter to Committee. Accordingly, supporters of a proposed TPO will only be allowed to speak if the proposal to make the Order has to be referred to Committee because of objections.

The Council is required to notify a landowner and neighbouring landowner of an intention to make a TPO. It can also publicise proposals to make a TPO through the display of a Site Notice and, in some circumstances, through publication of a Notice in the local Press and the public has 28 days in which to make representations. In order to exercise a Right to Speak, it is necessary to make that request within the 28-day period specified in notification letters and Notices.

Anyone exercising the right to address the Committee under these arrangements will be given 3 minutes in which to present their comments on the proposed Order. Opponents of a proposed Order make their representations first, followed by anyone who wishes to speak in support. No questions will be allowed by anyone making representations.

Arrangements for giving notice of wish to speak on a proposed TPO are set out under “What Do I Need To Do to Register?”

Some matters which are not relevant planning and land use considerations

- Loss of view
- Loss of value
- Commercial competition
- The applicant’s character or reputation.

Special provisions relating to tree preservation orders

Proposals for the making of Tree Preservation Orders often attract local interest in the particular area where the Order is being considered. That can result in objections or support for a Tree Preservation Order and, in some situations, both.

The Council’s Constitution delegates the making of Orders to the Director of Development Services and Head of Legal Services unless there are objections to the proposed Order, in which case it must be referred to the Development Control Committee for confirmation. Where this arises, the Council allows members of the public, who wish to speak in opposition to an Order being made and also anyone in favour of the Order, to be given the opportunity to speak at the Committee considering the matter. Where a proposed TPO is unopposed, it is not appropriate to

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and be given the opportunity to meet with the Case Officer and tell him or her your concerns. The Case Officer as part of the assessment of the proposals will carefully consider your comments and they will be fully addressed in the Summary of the Reasons for the Decision. You will be informed in writing of the decision, including any conditions that are imposed if permission is granted, and given a copy of the Summary of Reasons for the Decision so you will be able to see the weight able to be assigned to your comments in determining the application.

What are relevant planning and land use considerations?

Some examples are:

- Conflict with national and local planning policy
- Adverse impact on your living conditions, such as through loss of privacy or overshadowing
- Landscape intrusion
- Inadequate access or lack of parking
- Detrimental to the character of a Listed Building or harmful to the character and appearance of a Conservation Area
- Over-development of the site
- Inappropriate land use in the area including unsociable operating or opening times

Deferrals of applications by Committee

Sometimes planning applications are deferred from one Committee meeting to a later meeting in order that further information can be evaluated, or late amendments can be consulted upon, or where the Committee believes it should visit a site before deciding an application.

Where these circumstances arise and it is apparent that deferral would be beneficial, the Chairman will offer the registered speakers the opportunity to either speak at that initial meeting or reserve the right to speak when the application comes back to Committee for determination at a later meeting.

The scheme only allows speaking on one occasion unless there have been significant, material amendments to the proposals that raise new issues not previously able to be addressed.

What happens if I ask to speak but there are less than four objectors to the application?

At the end of the 21-day publicity and consultation period if there are less than 4 objectors you will be notified in writing that the application will be decided under the Scheme of Delegation

What is it?

The Scheme has been introduced to allow in certain circumstances persons who may be affected by a planning proposal to attend and speak at the Committee where the application is decided. It does not apply to every application the Council receives and operates on the basis that where a planning proposal is referred to the Development Control Committee, persons who have registered a “right to speak” can attend and set out their concerns about the proposals.

How does it work?

Most decisions on planning applications are “delegated” to be dealt with by Senior Officers under powers given by the Council. However, any application that attracts more than three written or verbal objections from separate households or addresses within the 21-day publicity and consultation period is referred to Committee if the views made in representations are contrary to the prospective decision that could have been made under the Scheme of Delegation. Any City Councillor may also request that a particular application be referred to Committee for determination.

The publicity and consultation period begins from:

- the date of a Site Notice or
- the date of publication of any Statutory Notice in the local Press or
- the date of any letter of notification sent to neighbours.

Who can speak?

Provided written notice is given within the 21-day publicity and consultation period that they wish to speak if the application is to be decided by the Development Control Committee, any member of the public who has objected to an application can appear at that Committee meeting. Alternatively, they can nominate someone, such as a solicitor or planning consultant, to do so on their behalf. The number of objectors who can speak in respect of any one application is, however, restricted to five on a “first-come, first-served” basis.

Similarly, the Scheme allows a Ward or other Councillor to attend and speak for or against an application provided they give written notice within the 21-day publicity and consultation period although they must also state clearly whether they are opposing or supporting the proposals .

Parish Councils that have indicated a wish to speak against the proposals when submitting their comments on a planning application within the 21 day consultation period will be entitled to speak only if the application is referred to the Development Control Committee for determination. That will normally be as a result of the receipt of more than three written or verbal objections from the public. It can also arise where the recommendation of a statutory consultee is contrary to the prospective decision that could have been made under powers delegated to Officers by the Council’s Constitution. Where a

Can I use visual or other presentational aids?

You can support your case with photographs, plans or other illustrative material so long as the display material is lodged with the Head of Planning & Housing Services at least two days before the Committee meeting. Digital photographs, video and drawings/plans can be displayed on the overhead screen but again must be provided at least two days prior to the meeting so they can be integrated with other presentational material. Suitable formats include PDF, Powerpoint and JPEG, which can be supplied by e-mail or CD/DVD.

You cannot distribute any written or pictorial material to the Committee members on the day of the meeting. If you have material or information that you wish each individual Committee member to be given, this should be provided to staff 10 days before the Committee meets so it can be distributed with other Committee papers and a copy provided to the applicant. It is helpful, where speakers prepare their presentations in writing, for a copy to be provided for or left with the Committee Clerk attending the Committee.

The Chairman will then invite the first objector to step forward to the seat assigned for public representations and will explain the entitlement to three minutes duration. It is very important that speakers use that time to deal with their planning-related objections and avoid straying into matters the Committee cannot consider such as ownership disputes, private covenants, loss of view or loss of value. At the end of their three minutes, each speaker vacates the chair and returns to the public seating areas.

If a Councillor has given notice of an intention to attend to speak in support of or opposition to an application the Chairman will invite those submissions.

When all the people outlined have spoken, including any Ward or other City Councillor who is appearing in support or opposition to the application, the Chair invites the applicant or anyone representing the applicant to address the Committee to respond. Once that presentation has been made, the speaker returns to the public seating area.

That is the end of all representations made by the public or applicant or anyone who is speaking at Committee on their behalf. Under no circumstances will speakers be permitted to question each other or the Committee or Officers.

Parish Council raises objections on grounds that are non-material to planning and land use considerations or that relate to matters that are not supported by the observations of the relevant “technical” or other specialist consultee, the “Right To Speak” will not apply.

In all circumstances where someone attends to speak against an application, the applicant is entitled to appear at Committee to respond. If the applicant doesn't wish to speak in person a representative, such as the Agent for the application if one is used, or a solicitor or planning consultant can be nominated instead.

What do I need to register?

If you intend to comment on a planning application that you think affects you, and you would like to speak should that application go before the Committee, you simply need to give written notice of that wish within the 21-day publicity and consultation period. You should also outline the basis of the representations you intend to make since comments that are not proper planning considerations cannot be taken into account when an application is decided. Guidance as to what constitutes relevant planning and land use considerations follows later.

**Write to: The Head of Planning & Housing Services
Carlisle City Council
Civic Centre
Carlisle
CA3 8QG**

You can also e-mail your comments to the address listed at the end of this Note but you should also provide a postal address in your comments.

If possible, in all correspondence, please quote the application reference number.

At the end of the 21-day period within which comments can be made it will become clear whether the application is to be referred to Committee rather than being decided under “Delegated Powers”. If it is going to be considered by Committee it will usually be possible to identify at that stage which meeting the application will go before. You will be notified in writing of the date and time of the meeting and asked to confirm if you plan to attend.

At the same time the applicant or agent if one is used, will be given written notice of the application being put before Committee. The arrangements for attendance to respond to comments made by objectors will also be explained, including the date and time of the meeting.

How long do I have to speak?

All persons who have registered to speak are given three minutes to make their submissions. Where there are several objectors to a proposal it will often be better for those objectors to get together and nominate a single spokesperson. Provided they give notice of that intention the Chairman of the Committee

has the discretion to allow an extended time period for the representations to be made.

Similarly, whether several speakers object in turn to an application or they combine their views through a single spokesperson given a little longer to explain their concerns, the applicant (or someone nominated to act for the applicant) will, at the Chairman’s discretion, be accorded a longer period to respond.

What happens on the day?

The Committee’s business is organised so that applications where persons are attending specially to speak on the proposals are dealt with first.

At the beginning of the meeting the Chair or a Council Officer will briefly explain the procedures for speakers to step forward to speak and how important it is for speakers to listen carefully for their name being called.

The Case Officer who has been dealing with it normally introduces each application and he/she will update the Committee with any additional information received since the Committee Report was issued. Plans and photographs of the site may be displayed and the Officer will normally conclude with a recommendation.

What is public participation?

People can ask to speak at the Planning Committee. The public participation procedure allows up to five people to address the Committee on planning applications. Each speaker will be given three minutes.

What can I speak about?

You can speak on any planning application that is being determined by the Committee. District and borough councils decide the majority of planning applications.

Who can speak at the Committee?

In order to register to speak, the City Council must have received written representations from you on the planning application at least 14 days in advance of the meeting (i.e. as part of the consultation process). If you prefer you may exercise your right to speak through representation by another person (e.g. planning consultant or lawyer).

What issues can I cover in my three minutes?

Speaking at Committee gives you the opportunity to present directly to the Committee the points you have made in your written representations on a planning application. For the Committee to give proper consideration to your views you must still ensure your written representation covers all your points. You are not expected to make new points when addressing the Committee.

Decisions on planning applications are limited by law to specific issues known as 'material considerations'. It is best that you keep to these issues since anything else must be ignored. The most important thing to keep in mind is that your comments must relate to the use of land and

should be directed to policies contained within national or local planning documents.

Some of the most common issues include:

- location and setting
- traffic and impact on road networks
- design and appearance
- landscaping
- possible effects of pollution on land
- noise and disturbance
- effect on Listed Buildings and Conservation Areas
- hours of working.

Anything I shouldn't cover?

The Committee cannot consider:

- boundary disputes, covenants or other property rights
 - reduction in property values
 - matters dealt with by other law (e.g. licensing)
 - personal remarks about the applicant (e.g. their conduct, private affairs or how a business is run).
- Try not to repeat issues covered by previous speakers.

How do I register my interest in speaking?

You will need to contact _____ who looks after the Planning Committee. Please e-mail dc@carlisle.gov.uk, or phone (01228) 817000 after the Committee papers are published, but no later than 9.30 a.m. on the last working day before Committee (Thursday).

You cannot register an interest ahead of the Committee papers being published.

When you ring please be prepared to give:

- your name, postal and/or e-mail address and daytime telephone number
- the application number and proposed development to which it refers

- whether you wish to speak in support of, or against, the application and whether you also represent anyone else
- confirmation that you are prepared to have your details passed onto other callers with similar views so that you can also speak on their behalf
- details of any special access arrangements you may require.

What if I am not one of the first to register?

We will be able to give you details of those who have registered and they may be prepared to include your views in their presentation.

How will I know when the item I am interested in is going to Committee?

_____, the _____ (01228) 817000 has details of Committee dates, and 10 days before the Committee will know which items are on the agenda. Details of the dates and agendas can also be found on www.carlisle.gov.uk As applications can attract thousands of letters, it is not possible for us to alert you to Committee dates.

Not all planning applications are reported to the Planning Committee for a decision. The _____ may decide some items under delegated powers. You cannot address the Committee on delegated matters.

Can I circulate written or visual material at the meeting?

Any person eligible to speak at Committee who wishes to submit written or visual material must do so to arrive at least three working days before Committee (usually the preceding Thursday), so that officers can check that there is nothing new that should be considered by the Committee. This material should be sent to _____

What will happen at Committee?

You should identify yourself to _____ by 10.00 a.m. _____ will note your attendance and answer any questions. The usual start time for the Committee is 10.30 a.m. The Chairman will invite you to speak for a maximum of three minutes at the appropriate time. You cannot question members, officers or other speakers, and they will not be able to question you. You are welcome to remain and listen to the rest of the debate.

What if I am unable to turn up on the day?

You may nominate a substitute, but will need to give their details to _____ by 9.30 a.m. on the day of the Committee.

What will happen after the meeting?

All speakers are entitled to comment on the draft minute of their contribution. You will be contacted when the draft minutes are available on the County Council's website. Please note that the minutes will include a brief resume of the points made by speakers and not a verbatim record. If you feel that the final minute is not accurate, you may make a

written representation asking for a correction, which will be submitted to the next meeting of the Planning Committee for consideration. Your written representation should be sent to _____, Carlisle City Council, Civic Centre, Carlisle, CA3 8QG.

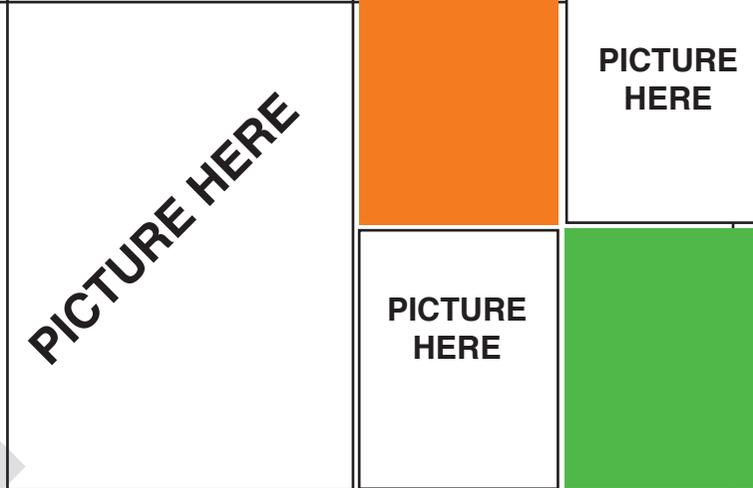
This leaflet is intended to answer your questions about speaking at the Planning Committee. For further information and advice, please contact _____ on (01228) 817000.

Planning Committees are planned for:

- Friday 10th June 2011**
- Friday 15th July 2011**
- Friday 19th August 2011**
- Friday 30th September 2011**
- Friday 11th November 2011**
- Friday 16th December 2011**
- Friday 27th January 2012**
- Friday 9th March 2012**
- Friday 20th April 2012**

Please note these dates are subject to alteration/cancellation dependent upon the business to be dealt with.

Further information about dates of and papers for meetings of the Planning Committee are available on the Carlisle City Council website at www.carlisle.gov.uk



CARLISLE'S SCHEME FOR PUBLIC SPEAKING AT DEVELOPMENT CONTROL COMMITTEE

