

Members' Planning Code of Good Practice

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

1.0 Introduction

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.4 This Code of Practice sets out practices and procedures that Members and Officers shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.5 Failure to follow this Code without good reason could be taken into account in investigations into possible

maladministration against the Council, or have implications for the position of individual elected Members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

- 1.6 This Code of Practice sets out principles to guide Members and officers in determining planning applications and making other decisions within the terms of reference of Development Management Committee. Although of particular relevance to members of Development Management Committee it applies to all Members of the Council who may become involved in planning and development matters.

2.0 The Role and Conduct of Members and Officers

- 2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a Member of the Development Management Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.

- 2.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Members shall provide:
- Impartial and professional advice;
 - Consistency of interpretation of planning policy; and
 - Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.

3.0 Interests of Members

- 3.1 Where the interest is such that Members of the public may feel that the Member will not be able to approach matters with an open mind and consider the application on its planning merits, Members should consider withdrawing from the Committee for that item.
- 3.2 The Code of Conduct for Members provides guidance as to Disclosable Pecuniary Interests which may affect a Member's ability to take part in the decision-making process.
- 3.3 Members should also consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Member considers that this is not possible, the Member should withdraw from consideration of that item.

3.4 The integrity of the planning system requires openness on the part of Members; it must operate fairly and be seen to operate fairly.

3.5 Members should seek guidance from officers where appropriate.

4.0 Lobbying Of and By Members

4.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or Members of a Development Management Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question.

4.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

4.3 The time for individual Members of the Development Management Committee to make a decision on a proposal is at the Committee meeting when all available information is to hand and has been duly considered.

4.4 A Development Management Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Development Management Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely susceptible to

persuasion at the decision-making meeting. Members who are lobbied should:

- make clear that they reserve their final decision on a proposal until the committee meeting;
- only give procedural advice;
- consider referring those lobbying to the relevant Officer who can provide further advice; and
- not seek to meet an applicant or potential applicant alone.

4.5 Members of the Development Management Committee shall not, in general, organise support or opposition for a proposal, or lobby other Members (other than when addressing the Development Management Committee). Members shall not put improper pressure on officers for a particular recommendation.

4.6 The local Member who is not a member of the Development Management Committee will be allowed to attend and speak at the decision-making meeting (either presenting their own views if they are an affected party or representing the views of their ward) but not vote. The Member of an adjacent ward substantially affected by the proposal shall, at the discretion of the Chairman of the Development Management Committee

4.7 Members of a Development Management Committee must be free to vote as they consider appropriate on planning matters.

4.8 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

5.0 Pre- and Post- Application Discussions and Negotiations

5.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these

parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.

- 5.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 5.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 5.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 5.5 Members need to preserve their role as impartial decision makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement with Officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 5.6 Members may receive information from applicants and give information to applicants and Members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

6.0 Officer Reports to Committee

- 6.1 The Head of Planning and Building Control will submit written reports to the appropriate Development Management Committee on planning applications to be determined by the Council. The reports will give the background to the

application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning and Building Control shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Head of Planning and Building Control in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

6.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

6.3 The Head of Planning and Building Control will have available for inspection by Members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

7.0 Planning Considerations

7.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.

7.2 Members of Development Management Committee should attend training sessions which may be organised from time to time. All other Members are encouraged to attend.

7.3 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.

7.4 Having identified all the material planning considerations and put to one side all the immaterial considerations, Members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

8.0 The Decision Making Process

- 8.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 8.2 Where an environmental impact assessment is required, the Development Management Committee shall take the information provided in the report into consideration when determining the application.
- 8.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 8.4 Where the Development Management Committee decide to adopt the recommendation of the Head of Planning and Building Control, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 8.5 Where the Development Management Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning and Building Control, or the Development Plan, agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted .
- 8.6 The reasons for Committee's decision to defer any proposal should also be recorded.

9.0 Site Visits

- 9.1 Any information gained from the site visit should be reported back to the Committee, so that all Members have the same information.
- 9.2.1 The site visit should be treated as an opportunity to seek information and to observe the site. The purpose of a site visit is to gain information relating to the land and buildings that is the subject of the planning application, which is not apparent from the report to be considered by the Development Management Committee. A site visit may also

assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Members are encouraged to visit sites accompanied by other Members.

- 9.3 Do not hear representations from any other party, with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present. Members should make a note recording the details of the meeting.
- 9.4 Do not express opinions or views to anyone. Members should not express an opinion on the planning application and its merits (or otherwise) at the site visit.
- 9.5 Do not enter a site which is subject to a proposal unless;
- You feel it is essential for you to visit the site
 - You can ensure you will comply with these good practice rules on site visits, and
 - Identify yourself (if necessary).

10.0 Representations on Planning Applications

- 10.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Development Management Committee. Members will be given the opportunity to inspect all letters received before the decision on the application is made.
- 10.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Development Management Committee.

10.3 The Council has a scheme for public speaking at Development Management Committee. Details of this scheme are on the Council's website.

11.0 Review of Decisions

11.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

11.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.

11.3 Attendance at the review site visits shall be restricted to members of the committee and the local Member.

12.0 Training

12.1 Members should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.

12.2 Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively