

## **Members' Planning Code of Good Practice**

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### **Introduction**

- 1.1—This Code has been prepared using advice in the Local Government Association's revised guidance note on good planning practice for Members and officers dealing with planning matters—*Probity in Planning for Councillors and Officers* (November 2013).

### **Key purpose of planning**

- 1.2—Planning has a positive and proactive role to play at the heart of local government in the London Borough of Barnet. It helps the Council to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs of the residents of Barnet to achieve sustainable development.
- 1.3—The planning system works best when Councillors and officers involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.

## **1 PURPOSE OF THIS CODE**

- 1.1 This Planning Code has been prepared to guide Members and Officers in the discharge of the Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct expected of adopted by the Council in the exercise of its planning powers.
- 1.2 The Planning Code is in addition to Members should abide by both this Planning Code and also the Barnet's Code of Conduct for Members.
- 1.3 The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds and, are applied in an consistent and open and transparent manner. and that Members and Officers making such decisions are held accountable for those decisions. The Planning Code is also designed to assist Members and Officers in dealing with approaches from property owners, developers and residents..

1.4 If Members ~~u~~ have any doubts about the application of this Planning Code ~~they~~you should seek early advice preferably well before any meeting takes place from the Monitoring Officer.

## **2 CONTEXT**

~~4.42.1~~ The planning process has the potential to deliver sustainable planned growth aspirations for the borough and ~~P~~planning decisions are often based on balancing competing interests (social, economic and environmental). ~~and making an informed judgement against~~in the context of a local and national planning policy framework. ~~Decision makers need to~~must make decisions ~~fair and open in accordance with Local Plan policies unless material planning considerations indicate otherwise~~ decisions that are in the wider public interest on what can be controversial proposals regardless of personal or political allegiances.

~~1.5~~ ~~In today's place-shaping context, early Councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the places that communities need. This guidance is intended to reinforce Councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.~~

~~4.62.2~~ Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public ~~consultation~~opinion before taking ~~engagement as part of the decisions-making process and the legal nature of the development~~local plan and planning decision notices. ~~Nevertheless, it~~ is important that the decision-making process is open and transparent.

~~4.72.3~~ One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. ~~In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors~~ who sit on planning committees ~~must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. The expectation is that members who sit on planning committees will be fair and reasonable when making decisions. Barnet Council recognises the importance of making~~ planning decisions affecting these interests in an open and impartial way, with sound judgement and for justifiable reasons.

~~4.82.4~~ The aim of this Code is therefore to ensure that ~~the~~ Council's processes are sound ~~will make sure that those participating in the decision are unbiased and that the decisions are~~ itself is lawful, ~~rational~~consistent and procedurally correct.

## **When the Code applies**

- ~~1.9— This code applies to Councillors at all times when they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications. If you have any doubts about the application of this Code to your own circumstances you should seek advice early, and preferably well before any meeting takes place, from the Monitoring Officer.~~
- ~~1.10— In this Code when the term “Councillor” or “Member” is used it means that the advice is applicable to all Members of the Council. The term “Planning Committee Member” means a Member or a substitute Member of any of the Council’s Planning Committees.~~

## **Relationship to the Members’ Code of Conduct**

~~Councillors are reminded that this Code is designed primarily for Members of the Council’s Planning Committees and Councillors who, for whatever reason, find themselves involved in the planning process. Whilst this Code interprets the Members’ Code of Conduct with respect to planning matters it is subordinate to the Members’ Code of Conduct and, in the event of any inconsistencies arising between this Code and the Members’ Code of Conduct, the Members’ Code of Conduct shall prevail.~~

## **General roles of Councillors and officers**

- ~~1.11~~2.5 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole through the Chief Executive, whilst Members are responsible to the electorate.
- ~~1.12— Officers are not appointed to serve any political group and therefore advise all Members and the Council. Officers carry out the daily functions of the Council’s business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers Code of Conduct contained in the Constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.~~
- ~~1.13— The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Members Code of Conduct in the Constitution is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council’s standing orders set down rules which govern the conduct of Council business.~~

### ***Relationship between Councillors and officers***

~~1.14 Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.~~

~~1.15~~2.6 Planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

2.7 Planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.

~~1.16~~2.8 Members must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views, when received in written form, will be placed on the planning file and considered together with other material planning considerations.

### **23 MEMBER INTERESTS: REGISTRATION AND DISCLOSURE**

~~2.1 A Councillor should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. A failure to properly register a Disclosable Pecuniary Interest or to participate in discussion or voting in a meeting on a matter in which a Councillor or co-opted Member has a Disclosable Pecuniary Interest, are criminal offences. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.~~

~~2.2 The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.~~

### ***Registration of interests***

~~2.3 A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.~~

## *Disclosure of interests*

3.1 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a particular matter to be discussed at a Planning Committee he or she should raise this with the Monitoring Officer as soon as possible.

~~2.4 If a Councillor has a Non-Disclosable Pecuniary Interest or a Non-Pecuniary Interest, he or she should disclose that interest orally at the committee meeting when it relates to an item under discussion, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.~~

3.2 Where a Member has a **Disclosable** pecuniary interest relating to an item under discussion, the Councillor may not participate ~~(or participate further)~~ in any discussion of the matter at the meeting or participate in any vote ~~(or further vote)~~ on the matter. There is no obligation for that Councillor to withdraw from the Chamber although this is advisable so that it is transparently clear that the Member concerned has not taken part in the determination of this particular item. This also means that a Councillor with a **Disclosable** pecuniary interest is precluded from making representations orally to the committee, either as a Councillor or in a private capacity, and precluded ~~or~~ from making representations on behalf of a party to the hearing.

3.3 A Councillor with a **Disclosable** pecuniary interest can still present their views to the committee through other means: ~~For example, the Member can:~~

- make written Representations to officers; in their private capacity in accordance with the Committee Consideration Criteria as set out in the Planning Committee Procedure Rules — the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations; ~~such written representations should be addressed to officers rather than other Members of the Authority;~~
- ~~use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; and~~
- arrange for another Member ~~of the Authority (eg a fellow ward councillor)~~ to represent the views of the Councillor's constituents ~~on matters in which the Councillor has a Disclosable Pecuniary interest.~~

-3.4 Conflicts of Interest: all Members need to be seen as impartial; quite often varied professions are present at planning committees — this may be a particular issue for Members who have in-borough property related business activity — for example estate agents, property developers or local landowner and who are s. These Members in general are more likely than others to be uncomfortable in the role of planning committee member by reason of the combined pressures of their private local business interests, the Ward Member advocate role, and the constraints of the planning system. Members with a property-related background may also give rise to a perception by residents that such Members are more likely to be in favour of the development even where they are determining cases completely impartially.

3.5 In order to minimise the risk to the Council and the Member concerned s/he should discuss any conflict of interest ~~their position~~ with the Monitoring Officer if they are nominated to a planning committee.



~~2.5 Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances, a dispensation can be sought from the Monitoring Officer to take part in that particular item of business.~~

## **34 4 PREDISPOSITION, PREDETERMINATION AND BIAS**

~~3.14.1 In addition to being aware and taking appropriate action in relation to interests,~~ Planning Committee Members need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a ~~legal requirement~~principle of natural justice that the decision maker must respect~~is expected to adhere to~~.

~~3.24.2 The courts have sought to distinguish~~A distinction needs to be made between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” approach and likely to leave the committee’s decision susceptible to legal challenge by Judicial Review.

~~3.34.3~~ Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such planning decisions.

~~3.44.4 The law~~ Section 25 of the 2011 Act also provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.

~~3.54.5~~ For example, a Councillor who states “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a Councillor who states: “Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area”. The former has a closed mind and is predetermined, whereas the latter is predisposed but still has an open mind.

~~This distinction is particularly important in the context of the Council's practice of facilitating presentations to Planning Committee by developers of schemes at the pre-application stage. After these presentations, the Committee Members question details of the development so that they have the opportunity to input into the design of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which will often display predisposition around these elements. What the Members of the Committee should not do at this stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process when all the material considerations are available to the Members of the Committee to consider and weigh up before finalising their view.~~

~~3.64.6~~ A Planning Committee Member who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined ~~their position~~the matter or have given that impression, they should avoid being part of the decision-making body for that application. ~~A Planning Committee Member, could speak at a Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their pre-determined position.~~

4.7 Participation as a Member in a Planning Committee where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Member considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.

4.8A Member should stand down from any agenda item where they have a relevant and current or recent private business or personal knowledge~~relationship~~ and association with any applicant or applicant's representative. If in doubt about this Members should~~may~~ speak with the Chairman or the Monitoring Officer or his/her representative before~~hand~~ any decision is made.

## 45 **5 APPLICATIONS SUBMITTED BY THE COUNCIL, COUNCILLORS OR OFFICERS**

### ***Applications submitted by the Council***

4.15.1 Proposals for ~~the~~a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.

5.2 Certain Councillors may through their other roles outside of a Planning Committee, have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Committee the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. ~~The most appropriate course of action if that is the case, is that the Councillor concerned may address the Committee in the applicant's speaking slot (see the Planning Committee Procedure Rules) but does not take part in its consideration and determination. It is important that the Councillor should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.~~

Applications submitted by Councillors or officers

5.3. It is perfectly legitimate for planning applications to be submitted by Councillors and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.

4.25.2 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing and/or determination. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing and/or its determination.

4.35.3 The 1APP planning application form requires an applicant to indicate whether they are a member of staff or an elected Member or a partner/spouse of a Member or Officer of the Council. Where decisions relate to applications made by Members of staff or an elected Member these should be reported to Committee where they relate to the following:

- Members of the Council
- Senior officers of the Council (Service Head and above)
- Officers of the Local Planning Authority.

4.45.4 The term "Officers of the Local Planning Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's planning function and include all external persons such as lawyers, contractors and advisors who work for the Local planning Authority.

~~4.5 The procedures to be followed in Committee in such circumstances are as follows:~~

- ~~• The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary interest for that Councillor and Councillors need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members' Code of Conduct.~~
- ~~• If such a Councillor does not have a Disclosable Pecuniary interest they may address the Committee as the applicant in accordance with the Council's public speaking procedures. If however, such a Councillor has a Disclosable Pecuniary Interest they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.~~



- ~~The Members of the Committee must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.~~

~~4.6 The principle in the final bullet point also applies to applications submitted by officers when they are considered in Committee.~~

## **56 LOBBYING ~~OF AND BY~~ COUNCILLORS**

~~5.16.1~~ Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Member of the Planning Committee.

~~5.26.2~~ As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

~~5.36.3~~ Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved.

### **Lobbying of Councillors**

~~5.46.4~~ A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

~~5.56.5~~ Planning Committee Members should therefore:

- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
- pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Planning Service as soon as practicably possible so that it can be taken into account and included in the report on the application;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and inform the ~~inform the~~ Monitoring Officer where they feel that 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 to follow the matter up where necessary.~~

~~5.6—Planning Committee Members should note that, subject to the requirements to ensure that Members comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:~~

- ~~• listening or receiving viewpoints from residents or other interested parties;~~
- ~~• making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;~~
- ~~• seeking information through appropriate channels; or~~
- ~~• being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.~~

~~5.7—In the interest of openness, it is recommended that Planning Committee Members declare any lobbying to which they have been subject.~~

~~5.8—It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual Councillor.~~

### **Lobbying by Councillors**

~~5.9—Planning Committee Members should not become a member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Member does, he/she may appear to be biased. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have a Disclosable Pecuniary interest unless they have received a dispensation for this purpose from the Monitoring Officer.~~

~~5.10—Planning Committee Members can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest where that organisation has made representations on a particular proposal. A Planning Committee Member should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.~~

~~5.11—Councillors should not excessively lobby Planning Committee Members regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.~~

~~5.12—Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.~~

~~5.13—Call-in procedures, whereby Ward Councillors can require a proposal that would normally be determined under officers' delegated authority, to be determined by a planning committee, require the reasons for call-in to be recorded in writing and to refer solely to material planning considerations. The procedures for this are set out in the Committee Consideration Criteria in the Planning Committee Procedure Rule.~~

~~5.14—Planning Committee Members should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so.~~

~~5.15—As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.~~

## **67 PRE-APPLICATION DISCUSSIONS**

~~6.17.1~~ Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. If potential applicants seek to meet Planning Committee Members then any such pre-application meeting should be organised through officers. ~~For this reason the Council have developed pre-application processes that enables engagement at the pre-application stage.~~

~~6.2—For major strategic applications the Council offers a service to potential applicants to present their schemes to the Council's Planning Committee. Details of this are set out in the Planning Committee Procedure Rules. This is the way in which Planning Committee Councillors engage with these schemes and there should therefore be no need to attend any other meeting with potential applicants or their agents/representatives.~~

~~6.37.2~~ In other cases potential applicants may seek to meet Councillors. For minor or household applications these can be treated as a form of lobbying and Councillors, including Planning Committee Members, should follow the advice set out above.

~~6.4—Where the application is more substantial, but not subject to pre-application committee presentations, these meetings will be subject to the following procedures:~~

- ~~• No private meeting involving a member or substitute member of the main Planning Committee or Area Planning Committees shall be convened without the presence of a Council planning officer for the entire duration of the meeting.~~

- ~~Both this Code and the Members' Code of Conduct will apply when attending such meetings.~~
  - ~~Any Planning Committee Member involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.~~
  - ~~Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.~~
  - ~~Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.~~
  - ~~Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested Councillors up to date) to ensure that the authority's position is co-ordinated.~~
  - ~~A contemporaneous note of the meeting should be prepared by the planning officer attending wherever possible and a copy sent to all parties for their agreement.~~
  - ~~The final version of the note of the meeting will form part of the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.~~
- 6.5 ~~Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken.~~
- 6.6 ~~Planning Committee Members should not attend pre-application meetings that are not organised through officers.~~

## **78 POST-SUBMISSION DISCUSSIONS**

- 7.18.1** A Planning Committee Member should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.
- 7.28.2** In limited circumstances Planning Committee Members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.
- 7.38.3** If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Planning Committee Member ~~Councillor~~ should report to the Chief Planning Officer any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.
- 8.4** Planning Committee Members should not attend post-submission meetings that are not organised through officers.

8.5 Councillors should report any substantive discussion with applicants to the chief planning officer.

## **89 SITE VISITS**

9.1 9.1—The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the planning application and which would not be apparent from the planning application to be considered by the Planning 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, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Discussions on site visits shall be confined to the application as currently submitted.

9.2 The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.

9.3 Under the Chairman's guidance the role of the Planning Officer attending the site visit will be to brief Members on the planning applications(s) the subject of relevant to the visit, and explain the reasons if the application was deferred for a visit;

9.4 9.4—Officers shall ensure, where practical, that applicants and Members are invited to attend the visit and that they are able to view all key parts within or adjoining the site.

9.5 Whilst on site visits, Members of Planning Committee should not express an opinion on the planning application or its merits, and should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination.

9.6—Members and Officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance);

9.8—Members who were not present at a pre-arranged site visit should not seek to defer consideration of the application.

9.6 Members of the planning committee who were not present at a pre-arranged site visit should not seek to defer consideration of the planning application.

9.7 A site visit should not be arranged on the basis of exposing Members of the Planning Committee to local opinion but should be to explore the planning issues in the application.



## **910 PLANNING APPEALS**

~~9.1~~10.1 Appeals ~~into~~ against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.

10.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the cChief pPlanning oOfficers to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council, brings the Council into disrepute or puts the decision made at risk of challenge.

10.3 Where the Planning Committee or an Area Planning Committee refuses an application against the officer's recommendation one Member of the Committee should attend any appeal on behalf of the Council and other Members may attend as observers if they so wish. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision with such assistance from the ~~nominated~~ lead Committee Member as may be required. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.

~~9.2~~

10.4 Where the ~~appealed~~ decision of planning committee members is was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

~~9.3~~10.5

## **1011 PLANNING ENFORCEMENT**

10.111.1 ~~It is perfectly legitimate for~~ Councillors ~~to~~ should bring to the attention of the Planning Service suspected breaches of planning ~~control~~ law so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the cChief pPlanning oOfficer.

~~10.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service.~~

## **1112 COUNCILLOR TRAINING**

~~11.1 Councillors may not participate in decision making at meetings of the Council's Planning Committees unless they have attended mandatory training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.~~

~~11.2~~ 11.2.1 ~~All~~ Whilst all new Members, newly appointed Chairmen and returning Members when re-elected, of the Council's Planning Committees ~~and new substitute Members should must attend annual induction or refresher training at the earliest date possible and ideally before the first committee meeting.~~ have to attend this training before they can participate in the Council's Planning Committees, and all o Other Planning Committee Members and substitute Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

~~11.3~~ All Planning Committee Members should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role properly and effectively.

~~11.4~~ Training provided on planning related matters is aimed at Planning Committee Members but is open to any Councillor with an interest to attend.

## ~~12~~ 12 — AMENDMENTS/VARIATION

~~13~~ Where amendments/variation to this Code are necessary due to legislative changes, the Head of Governance may make such consequential changes to this Code as are necessary to comply with the law.

## 13. MEETINGS OF THE PLANNING COMMITTEE

~~13.1~~ A clear distinction has to be drawn between a Member and an Officer attending a Public Meeting and their roles when they attend meetings of the Planning Committee.

~~13.12~~ No material revision to any planning application submitted by the applicant which might lead to a change in the officer recommendation shall be considered at Planning Committee unless it has been submitted at least 14 clear days before the relevant Planning Committee meeting, and has been the subject of a written report prepared by the planning department and any necessary public consultation has taken place.-

~~13.23~~ If the Planning Committee seeks to make a decision contrary to the planning officer's recommendation; the relevant an agreed procedure set out on the attached charts should will be followed. The Courts have expressed the view that the planning reasons for the contrary decision should be clearly recorded which means that members may be required to openly state in the meeting as to how and why they reached a contrary view. and convincing.

~~13.34~~ Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item. This may be by recorded vote., by requesting from each member as to how they have voted, noting this and the member's name.

### 13.5 The Chairman should ensure:

- Members' comments at Committee only relate to the planning merits of the application before them;

- reference at Committee to non-planning issues by the public / Members are discouraged;
- the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined;
- ~~Members and the public should be made aware that the late submission of evidence will not be permitted at Committee as late submission can lead to allegations of unfairness.~~
- Residents and applicants understand that the late submission of evidence could lead to the deferral of the meeting and may not be permitted without agreement of all parties.