

## **Planning Protocol**

1. Planning decisions should be made openly, impartially, on relevant justifiable planning reasons and in the public interest.
2. The overriding duty of a Councillor is to the whole community and not just to the people in their Ward.
3. Councillors should always apply the rules in the Members' Code of Conduct first; this protocol supplements that code for the purposes of the Council's planning function.
4. Councillors should always disclose any interest they have under the Members' Code and should not take part on any application in which they have a personal and prejudicial interest.
5. Councillors should not decide on how to vote on any planning matter prior to the Planning meeting and reading the officer report.
6. Councillors should not lobby excessively fellow Councillors, Officers or organise opposition or support for a specific planning application.
7. Councillors on the Planning Committee who are also members of a Community Council should consider carefully expressing views when the Community Council meeting is consulted on planning matters.
8. Councillors who consider that they have predetermined a planning matter can make a personal statement at the beginning of the debate but then must withdraw from the meeting and cannot move or second a motion on that matter.
9. When contacted in relation to a planning matter Councillors should consider taking notes, referring the person to the Planning Section and should not say anything which could be interpreted as their final view on the merits of the application.
10. Councillors should attend presentations and formal meetings only with Officers present. Councillors may ask questions but

should avoid expressing what could be considered a final view.

11. Advice should be sought from the Head of Legal and Democratic Services at all times where Councillors have concerns regarding any of the above.

## **1. Background**

- 1.1 The Third Report of the Committee in Standards in Public Life (the Nolan Committee) looked in detail at the Planning System making a number of recommendations, including a recommendation that Planning Committees should review their procedures and set them out in a code accessible to Councillors, staff and members of the public.
- 1.2 In response, the Council adopted a document following this recommendation in November 2000. It was reviewed in June 2012, following the revised National Code of Conduct for Councillors in 2007, the publication by the Local Government Association in 2009 of updated guidance in “Probity in Planning: The Role of Councillors and Officers”, and also to take into account Section 25 of the Localism Act 2011 (the provision relating to predetermination) which came into force in January 2012.
- 1.3 This protocol is supplemental to the Neath Port Talbot Members’ Code of Conduct.

## **2. General Considerations**

- 2.1 Planning decisions necessarily affect land and property interests including the value of land and the amenities of people living in the vicinity. Consequently, planning is often highly contentious. It is important, therefore, that the Council, as Planning Authority, should make planning decisions, openly, impartially with sound judgements and for justifiable planning reasons.
- 2.2 The aim of this planning protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.3 The key purpose of Planning is to control development in the public interest.
- 2.4 The role of a Member of the Planning Committee is:

2.4.1 To make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

2.4.2 The overriding duty of a Councillor is to the whole community.

2.4.3 Whilst the Councillor can take into account the views of others it is his or her responsibility alone to decide what view to take on any question which Councillors have to decide.

2.4.4 It is not enough to avoid actual impropriety. The Councillor must always avoid giving suspicion for or the appearance of improper conduct.

2.4.5 Not to decide how to vote on planning applications on the basis of a political 'whip'.

2.4.6 To determine each case on its own merits.

2.5 This protocol applies to Councillors at all times when involving themselves in the planning process. (This includes when taking part in the 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 and decisions relating to the Local Development Plan (LDP) or other plan and policies. When the LDP is referred to in this protocol it includes reference to other policies also, as it does to planning applications.

2.6 If you have any doubts about the application of this protocol to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

### **3. Relationship to the Members' Code of Conduct**

3.1. The Councillor should apply the rules in the Members' Code of Conduct first, which must always be complied with.

3.2. The Councillor should then apply the rules in this Planning Protocol which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If the Councillor does not abide by this protocol:

3.2.1 The Council may be at risk of proceedings on the legality or maladministration of the related decision; and

3.2.2. A breach of the Members' Code of Conduct can result in a personal complaint against a Councillor. That Councillor may be at risk of being reported to the Ombudsman and the matter referred to the Standards Committee if the failure is also likely to be a breach of the Code of Conduct.

#### **4. Development Proposals and Interests under the Members' Code**

4.1 The Councillor should disclose the existence and nature of any interest at any relevant meeting, including informal meetings or discussions with officers and other Councillors. The interest should be disclosed at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

4.2 Where the interest is personal and prejudicial:-

4.2.1 The Councillor should not participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.

4.2.2 The Councillor should not represent ward views, but should ask another Ward Councillor or a Councillor from another Ward to do so instead.

4.2.3 The Councillor should not get involved in the processing of the application.

4.2.4 The Councillor should not seek or accept any preferential treatment, or place him or herself in a position that could lead the public to think the Councillor

is receiving preferential treatment. This would include using the Councillor's official position to discuss proposals with officers or other Councillors when other members of the public would not have the same opportunity to do so.

- 4.2.5 The Code places limitations on what the Councillor can do in respect of an application in respect of which they have a personal and prejudicial interest whether positive or negative.
  - 4.2.5.1 The Councillor should notify the Monitoring Officer in writing and note that:
    - 4.2.5.1.1 Notification should be sent as soon as the Councillor is aware of the application where possible.
    - 4.2.5.1.2 The proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
    - 4.2.5.1.3 Where a Councillor has a personal and prejudicial interest in a proposal put before a meeting, the Councillor will have to withdraw from the room or chamber whilst the meeting considers it.
    - 4.2.5.1.4 It is advisable to employ an agent or use a representative to act on the Councillor's behalf on the proposal in dealing with officers.
- 4.2.6 Para 10 (2)(b) of the Members' Code of Conduct operates to define as a personal (and potentially prejudicial) interest a situation where a member of the public may reasonably perceive that the member was more swayed by ward interest than wider public interest. Where a controversial planning application potentially affects the whole of a Councillor's ward the Councillor should seek advice from the Monitoring Officer at an early stage as to whether this paragraph may be relevant. If para 10 (2)(b) is triggered a Councillor must declare an interest and withdraw from the Planning Committee meeting in accordance with the requirements of the Members' Code of Conduct.

## **5. Predetermination in the Planning Process**

- 5.1.1 In addition to the declaration of personal or prejudicial interests the Courts have stated over the years that members of a planning committee need to avoid any actual bias or any appearance of bias or of having predetermined their views when taking a decision on a planning application or LDP matter. Avoidance of bias or predetermination is a principle of natural justice which the decision-maker is expected by the courts to embrace.
- 5.1.2 The position of the Courts is supplemented by the provision of the Members' Code of Conduct which states that decisions should be reached on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant officer's advice.
- 5.1.3 In addition Planning Committees are obliged to consider what are known as "material considerations" when considering planning matters and should disregard matters not relevant to planning. Therefore, regardless of background views Councillors are required to focus on material considerations when making decisions. The Code also requires that Councillors should be able to give reasons for decisions.
- 5.2 A distinction is drawn between a planning councillor having clearly decided beforehand how he or she would vote and having a closed mind at a meeting (predetermination), and a predisposition to an initial view, but where the councillor is clear they are willing to listen to all the material considerations presented at the committee before deciding on how to exercise their vote on behalf of the community. In the latter case there is no predetermination.
- 5.3 The Councillor should not decide on how to vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and

hearing the officer's presentation and evidence and arguments on both sides.

- 5.4 Otherwise, taking part in the decision could put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 5.5 Under the Localism Act 2011 any views expressed by a Councillor cannot be used to prove that he or she has predetermined the matter. However under the Act any views expressed prior to a meeting can be relevant if together with other evidence, it shows that a member has or appeared to have predetermined a matter. This section only deals with evidence of predetermination and does not abolish the rule that a decision maker should not predetermine. The legislation is confusing and your legal advisors will monitor developments in the law. However, what remains clear is that if a Councillor is satisfied that he or she has predetermined a matter participation in a decision is not appropriate.
- 5.6 Councillors can talk to constituents, take an active part in local discussions and express a view on local issues prior to a matter coming before the Planning Committee.
- 5.7 Councillors should however refrain from expressing views which could be perceived as being their final view and a determination to vote in a particular way irrespective of all the arguments and points raised at the meeting.
- 5.8 Councillors should be aware that they are likely to have predetermined where the Council is the landowner, developer or applicant and the Councillor has acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through a Councillor's significant personal involvement in preparing or advocating the proposal a Councillor will be, or perceived by the public



as being, no longer able to act impartially or to determine the proposal purely on its planning merits).

- 5.9 Councillors on the Planning Committee who also serve on bodies (such as Town and Community Councils) that are consulted about planning applications need to think carefully about their participation in that consultation process in order to avoid the impression that they have already made their minds up before the matter arrives at the Planning Committee. Councillors will be familiar with the fact that, when they receive the consultation on a particular matter, they only receive the proposal and not the full officers' report. It is at the point when the officers' report is submitted to Councillors that all material considerations are before them. A firm decision before that point is as stated above therefore premature in terms of planning law. This does not prevent a Councillor listening to a debate at a Town and/or Community Council, so long as the Councillor does not take part in the debate.
- 5.10 The Ombudsman has issued guidance on the Code of Conduct in which he says that, if Councillors participate in considering consultations at the Community Council level, they should emphasise that they would look at the matter afresh when it was considered in the Planning Committee and further that they would take into account all the information and advice provided to them. The Ombudsman goes on to say that the Councillors should then emphasise at the Planning Committee that they are not bound by the decision of the Community Council on the consultation. This advice is rather complicated to follow and one can question whether any member of the public attending a Community Council meeting would understand the distinction between a view expressed on consultation and a vote taken at the Planning Committee. Councillors may well consider whether it would be preferable to leave the room or simply listen to debate in the Community Council but express no view until the matter comes before Planning Committee.
- 5.11 Councillors who consider that they have predetermined a matter shall adhere to the following procedures:-

- 5.11.1 The Councillor shall inform the Committee at the commencement of the meeting that he or she intends to make a personal statement on a specified item.
- 5.11.2 When the Committee reaches that item the Chair shall call the Councillor to make the personal statement.
- 5.11.3 The statement shall contain only the following matters:-
  - 5.11.3.1 a statement by the Councillor that he or she has committed themselves on the matter and therefore cannot participate in the decision making;
  - 5.11.3.2 any representations received by the Councillor as a ward Member;
  - 5.11.3.3 any queries or requests for clarification which the Councillor wishes the officers to address at Committee.

Following this statement the Councillor shall withdraw from the meeting but may remain in the public gallery.

- 5.12 A predetermined Councillor can continue to represent those ward interests as a spokesperson for their local community outside a meeting.

## **6. Contact with Applicants, Developers and Objectors**

- 6.1 Councillors should refer those who approach them for planning, procedural or technical advice to officers.
- 6.2 Where Councillors feel a formal meeting with applicants, developers or groups of objectors would be useful in clarifying the issues, the Councillor should never seek to arrange that meeting but should request the Head of Planning and Public Protection to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- 6.3 If Councillors are contacted they should:
- 6.3.1 follow the rules on lobbying;
  - 6.3.2 consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - 6.3.3 report to the Head of Planning and Public Protection any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and their involvement in them, and ensure that this is recorded on the planning file.
- 6.4 Where there are presentations by applicants/developers:
- 6.4.1 Councillors should not attend a planning presentation unless an officer is present and/or it has been organised by officers. This will not prevent Councillors from attending unaccompanied passive exhibitions where there is no requirement for interaction with a proposed developer.
  - 6.4.2 Councillors may ask relevant questions for the purposes of clarifying their understanding of the proposals.
  - 6.4.3 Councillors should remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Committee of the planning authority.
  - 6.4.4 Councillors should be aware that a presentation is a form of lobbying and any views should be expressed as their provisional views and should not state how they might vote.

## **7. Lobbying of Councillors**

- 7.1 Councillors should explain to those lobbying or attempting to lobby that, whilst Councillors can listen to what is said, it could prejudice impartiality and therefore

the ability to participate in the Committee's decision making.

- 7.2 Councillors should remember that their overriding duty is to the whole community not just to the people in their ward and, taking account of the need to make decisions impartially, that Councillors should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 7.3 Councillors should not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable Councillors should ensure it is of a minimum and its acceptance is declared as soon as possible and remember to register it on the Register of Members' Interests where its value is £50 or over (in accordance with the authorities rules on gifts and hospitality).
- 7.4 Councillors should copy or pass on any lobbying correspondence received to the Head of Planning and Public Protection at the earliest opportunity.
- 7.5 Councillors should promptly refer to the Head of Planning and Public Protection any offers made of planning gain or constraint of development, through a proposed S.106 Planning Obligation or otherwise.
- 7.6 Councillors 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).
- 7.7 Councillors should note that, unless they have a personal and prejudicial interest, they will not have predetermined or breached this Planning Protocol through:
  - 7.7.1 Listening or receiving viewpoints from residents or other interested parties.

- 7.7.2 Making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to pre-judging the issue and they are clear about keeping an open mind.
- 7.7.3 Seeking information through appropriate channels; or
- 7.7.4 Indicating what views they have heard or speaking at the meeting as a Ward Member, 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.

## **8. Lobbying by Councillors**

- 8.1 It may be unwise for a Councillor to become a member or lead or represent an organisation whose primary purpose is to lobby to promote or oppose specific planning proposals. If they do, they will have predetermined the matter and may have a personal and prejudicial interest.
- 8.2 Councillors may join general interest groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but should disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that the Councillor has reserved judgement to make up their own mind on each separate proposal. However advice should be sought in each case.
- 8.3 Councillors should not lobby excessively fellow councillors regarding their concerns or views 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.
- 8.4 Councillors should not decide or discuss how to vote on any application at any sort of political group meeting, or

lobby any other Councillor to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

## **9. Site Visits**

- 9.1 There is a need for consistency both in the way that it is decided that a site visit should take place and in the conduct of such visits. Otherwise it leaves the Council open to the accusation that site visits are arbitrary or even a covert lobbying device.
- 9.2 A call for a site visit should be the subject of a substantive motion to the Planning Committee, and such motion shall include the reasons for the site visit.
- 9.3 Site visits can cause delay and additional costs and should only be acceded to when the expected benefit is substantial, e.g. where the impact of the proposed development is difficult to visualise from the material available to the Committee, or where relevant issues cannot be expressed adequately in writing, or where a proposal is particularly contentious.
- 9.4 Where the Planning Committee agree to a site visit, the reasons shall be recorded in the Minutes.
- 9.5 Site visits will normally be undertaken by the Planning (Site Visits) Panel, plus local members. Site visits by the whole of the Planning Committee should be rare and should relate to contentious major proposals.
- 9.6 Site visits are open for anyone to attend, subject to the landowner's permission where the meeting is being held on private land. There is no provision for third parties to speak. Their purpose is to view the proposals on site and, following consideration of the planning officer's report, including where relevant the views of any statutory consultee, to make a reasoned recommendation to the Planning Committee.
- 9.7 The visit is not intended to be a site meeting with either the applicant or objectors, as the pros and cons of the

application are for debate and discussion at the Panel meeting. Site visits by their very nature need to be informal. They of course take place in the open air, sometimes in adverse weather conditions, and it is often neither the time nor the place for reasoned debate.

9.8 Any local residents, particularly objectors who may attend at the site, should therefore be acknowledged and told their objections will be reported to the Planning Committee (which they should separately put in writing) but there should be no debate with them at the site. Sometimes it will be necessary to enter the property of a local resident who will be able to point to features but, again, he/she must be informed of the objective of the visit.

9.9 One variation to the above may be for the Site Visits Panel, on the instruction of the Planning Committee, to meet with another statutory body or organisation, at a site visit (e.g. a Community Council) but again it will be for the Panel to report back to the Planning Committee. However, in this case the applicant must also be given the opportunity to be present and to be heard by the Panel.

9.10 Councillors should not enter a site, which is subject to an application, other than as part of an official Planning (Site Visits) Panel, even in response to an invitation, as this may give the impression of bias, unless:

1. The Councillor can ensure he or she will comply with the Members' Code of Conduct;
2. The Councillor has first spoken to the Head of Planning and Public Protection about his or her intention to do so and the reason(s). For the avoidance of doubt, these reasons and decisions will be recorded on a file.

## 10. **Public speaking at meetings**

Councillors should not allow members of the public, applicant(s), objector(s) and/or their professional

advisor(s)/agent(s) to communicate with them during the Committee's proceedings (orally or in writing) as this may give the appearance of bias.

## **11. Officers**

11.1 Councillors should not put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or expressing views to the Head of Planning and Public Protection.

11.2 Councillors should recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.

11.3 Councillors should recognise and respect the fact that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, 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.

## **12. Decision making**

12.1 Councillors should ensure that, if they request a proposal to go before the Committee rather than be determined through officer delegation, that their reasons are recorded and repeated in the report to the Committee.

12.2 Councillors should come to meetings with an open mind and demonstrate that they are open-minded.

12.3 Councillors must comply with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and make



decisions in accordance with the Development Plan unless material considerations indicate otherwise.

- 12.4 Councillors should come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If they feel there is insufficient time to digest new information or that there is simply insufficient information before them they should request that further information. If necessary, seek a short adjournment or deferral.
- 12.5 Councillors should fully assimilate the report on any application and try to be present to hear the entire debate, including the officers' presentation of their report.
- 12.6 The proposed reason for a decision to defer any proposals shall form part of a motion to defer and shall be recorded in the minutes.
- 12.7 Under the Council's Constitution the Committee may determine planning applications which are contrary to any policy within the Structure Plan, Local Plans, and/or the Unitary Development Plan except that where there is a major departure in the view of the Director, and the Committee is minded to approve notwithstanding a recommendation of refusal by the Director, then the views of the Cabinet must be obtained. If the Cabinet supports the Officers view, but the Committee is still minded to approve, then the application must be referred to full Council for determination.
- 12.8 Councillors should make sure that if they are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that they identify clearly and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. They should be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge, which may involve legal proceedings.

12.9 Councillors should ensure that they consider any issue in light of material considerations overall and not ward interests.

### **13. Local Development Plan**

13.1 The principles set out in this Protocol apply equally to decisions on the Local Development Plan. Whilst it is expected that Members will be fully involved in community engagement and discussions Members should avoid putting themselves in a position of predetermination.

13.2 Preparation of the Local Development Plan differs from the consideration of individual planning applications in that it both relates to the consideration of individual sites and to how sites relate to the needs of the wider area. It is important that even where Members or Officers have a prejudicial interest in relation to a site that they are able to contribute to the work and discussion concerning a wider area. However, whenever the discussion or preparatory work focuses on the comparison of individual sites or could otherwise be seen as impacting on or in some other way relevant to their site they must exclude themselves from the work and decision making.

### **14. The Procedure**

14.1 The deliberations of the Planning Committee will be confined to the published agenda, and any urgent items that have been accepted by the Chairperson, in accordance with the Local Government Act 1972. The order of business will generally be in accord with the agenda, however, the Chairperson will seek to bring forward items of business those members of the public, or applicants, have come to hear.

14.2 The Chairperson will ensure that meetings of the Planning Committee are conducted in accordance with the Council's Rules of Procedure, and safeguard that appropriate debate is able to take place in a structured and professional manner, with Members being given the opportunity to raise material planning issues (normally

through a single representation). The Chairperson will seek to avoid repetition and/or irrelevant debate.

- 14.3 Members shall endeavour to give not less than twenty four (24) hours' notice (preferably in writing) to the Head of Planning and Public Protection all questions requiring a technical or detailed response so that an appropriate response can be prepared for the meeting of the Planning Committee.
- 14.4 To ensure the meeting of the Planning Committee is kept to a reasonable length, if a number of individuals wish to speak, either for or against a particular planning application on similar grounds, they should seek to combine their representations, and nominate one (1) spokesman to speak on their behalf. This will avoid any unnecessary repetition.
- 14.5 Planning officer(s) will update the Planning Committee, on each application, in respect of submissions and other material matters not addressed in the main report and, through the Chairperson, will be responsible for responding to Councillor questions.
- 14.6 Visual aids and/or other supporting evidence (for either the applicant(s) or objector(s)) will not be permitted, unless there are exceptional circumstances (to be determined by the legal officer in consultation with the Chairperson). Applications by applicants, or objectors, to submit visual aids or supporting evidence to the Planning Committee will need to be made to the Planning Section in advance of the Planning Committee in order for their appropriateness to be assessed. This will not impinge upon Council officers submitting such evidence. The Chairperson shall have absolute discretion as to the conduct of business, which shall include deciding on the number of speakers, together with ruling upon the admissibility of evidence.
- 14.7 Where officers advise the Chairperson of material professional concerns or potential consequences of a particular course of action (or of any potential liabilities or errors of fact) officers shall be afforded reasonable

opportunity to concisely explain those matters to the Planning Committee before it reaches a decision. Similarly, the legal officer present at the meeting shall also be permitted to intervene for the purposes of giving legal advice relating to matters of procedure, and planning law, at any point before the Planning Committee reaches a decision.

14.8 The order for public speaking will normally be as follows:

1. Presentation of the Council officer's report;
2. The applicant(s);
3. The applicant's professional adviser(s);
4. Supporters of the applicant(s);
5. Professional advisers of the objector(s);
6. Objector(s);
7. Response by the planning officer to new material, detail or comments introduced by the applicant(s) and objector(s) and/or their each respected adviser(s);
8. Summing up by the Chairperson.

Councillors will then consider and debate the application, and will determine the decision to be made on it.

14.9 Each speaker will have no more than five (5) minutes to address the meeting although, in exceptional circumstances, the Chairperson may extend this time.

14.10 Each and every speaker must comply with the directions of the Chairperson, should he/she interrupt them during their speech.

14.11 Each and every speaker is advised that the law of defamation applies to any statement made in public. It is important, therefore, that speakers do not make personal comments about any applicant(s) or objector(s).

14.12 Consideration of an item will not be delayed because an applicant, or objector, is not present, providing they have been appropriately informed of the time and date of the

Planning Committee meeting, and of their right to speak at that meeting.

**15. Training for Councillors**

15.1 The Council considers that Members of the Planning Committee should undertake training. This opportunity will be offered to all Councillors. No Councillor appointed to the Planning Committee can sit at a Planning Committee meeting without having undertaken appropriate training in planning procedures beforehand.

15.2 Members of the Planning Committee will be offered core training (normally within three months of appointment to the Committee. The subject matter will cover planning procedures, the development plan and material planning considerations, probity and other subject determined from time to time by officers in consultation with the Councillors.

15.3 Other training will be available in the form of additional sessions, short presentations to the Committee, and the circulation of briefing notes.

**16. Planning applications submitted by Councillors, Community/Town Councils, and officers**

16.1 Planning applications submitted by, or on behalf of Councillors, or officers employed by the Council, or by, or on behalf of a spouse, partner, parent, child or sibling of a Councillor or officer of the Council, where known, shall be decided by the Planning Committee and not delegated powers by the Head of Planning and Public Protection. This will also apply where that person is acting as an agent for another party.

16.2 The affected Councillor(s) must declare an interest, and nature of the interest/relationship, and shall take no part in the decision unless he/she has been granted dispensation from the Council's Standards Committee.

16.3 The affected officer shall take no part in the processing of the application, and any recommendation made to the Planning Committee.

16.4 Where a Community or Town Council submits a planning application, any County Borough Council Councillors who are also Councillors of that Community or Town Council should declare their interest and withdraw from the meeting. Those Councillors, however, may be allowed to attend to Planning Committee meeting for the purposes of making representations, and answering questions relating to the application concerns, providing members of the public are permitted to make representations, give evidence or answer questions about the matter. The Councillor must then leave the Planning Committee meeting until the application has been determined by the Committee; following this the Councillors can re-join the meeting to take part in any remaining agenda items.

## **17. Planning applications submitted by the Council**

17.1 It is essential that the Council treat applications for its own development (or a development involving the Council and another party) in a similar manner to all other applications, and that is seen to be the case.

17.2 All such proposals will be subject to the same administration processes, including consultation, as private applications. Determination shall similarly take into account planning policy, and any other material planning consideration(s).

17.3 In order to ensure transparency and openness in dealing with such applications, Council applications (except for discharge of conditions) that involve land owned by the Council and/or where the Council has a financial interest will not be dealt with under delegated powers, but will be determined by the Planning Committee.

**18. Recording of proceedings of Planning Committee meeting**

18.1 Planning Committee meetings shall be webcast by the Council in accordance with the Council Procedure Rules

**19. Appeals against Council decisions**

19.1 Officers will organise and generally appear as witnesses at planning appeals, and other proceedings on behalf of the Council. In some circumstances (such as where specialist evidence is required or where a Member decision is contrary to officer recommendation) it may be necessary to appoint a consultant(s) to appear on behalf of the Council.

19.2 In giving evidence, officers will present the best case on behalf of the Council while complying with the Royal Town Planning Institute Code of Professional Practice, which requires that planning officers – who are members of the Institute – do not make statements purporting to be their own, but which are contrary to their bona fide professional opinions.

19.3 In cases where the appeal is against a decision that the Planning Committee has made, contrary to planning officers' recommendation, the planning case officer may be able to give evidence. In some cases, however, another officer or consultant(s) will be employed the Head of Planning and Public Protection considers that the case-officer's previously stated views may be unhelpful to presenting the Planning Committee's position.

19.4 Councillors can have an important role to play in appeals and may, within set deadlines, make written representations to the Planning Inspector, and may also appear at informal hearings or as a witness at public local inquiries. In doing so, they should state whether they are acting in their local Councillor capacity or, exceptionally, representing the Council's case.

19.5 Where planning officers are unable to defend decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute) the Planning Committee should be aware of this before the final vote is taken. In such cases, the Committee shall nominate at least two of its members who voted contrary to the recommendation to appear at any appeal, and defend the Committee's decisions, and reasons, for them. These should normally be the proposer, and seconder, of the proposal, which was contrary to officers' recommendation.

19.6 Councillors attending or wishing to make representations at appeals will receive support from planning, and legal, officers. Planning, and legal, officers will advise Councillors on preparing and delivering evidence. Legal officers will attend inquiries or assist in preparing representations when legal representation is required.

## **20. Review of decisions**

20.1 The Audit Commission's Report, '*Building Quality*', recommends that Councillors should visit a sample of implemented planning permissions to assess the quality of the decisions. The purpose of such a review is not to change decisions, but to assess and improve the quality and consistency of decisions and, thereby, strengthen public confidence and assist in reviewing planning policy.

20.2 The Planning Committee will undertake an annual review of a sample of planning decisions made by the Committee. The review will include examples from a range of development types (for example, major residential proposals, listed building consents, and enforcement cases) and, where it is considered appropriate and beneficial, include visits to sites.

20.3 The Planning Committee will formally consider the results of the review and decide whether it gives rise to the need for new policies, procedures and practices.



20.4

The outcome of appeals against the decisions of the Council will be reported regularly to the Planning Committee. The outcome of enforcement cases, and legal proceedings, will also be reported regularly so that the Planning Committee can review its own decision-making processes.