



Gloucester
City Council

PLANNING AND DEVELOPMENT - CODE OF PRACTICE

Revised July 2012

**A guide to the protocol and procedures to be followed by
Officers and Members in relation to Planning and Development
matters including Planning Applications, Development Plan
and discussions with developers**

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Introduction

Gloucester City Council's Planning Committee makes statutory decisions on Planning and related applications. Officers decide most applications, in fact about 90%, under powers delegated to the Corporate Director of Regeneration. Applications determined under "delegated powers" tend to be minor and straightforward proposals. The Planning Committee deals with major and contentious applications so their decisions are often significant, weighty and have a considerable effect on the value of land as well as the lives and amenities of people living near development sites. Furthermore, if the Committee makes a wrong or reckless decision this may mean that the Council has to pay substantial costs if it fights and loses an appeal, or if its decision is the subject of a legal challenge from an aggrieved third party.

The principles upon which decisions must be made are set out in legislation in the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004. Both acts require decisions to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. Under the 1990 Act, the "Development Plan" comprises the County Structure Plan and any adopted Local Plan. Under the 2004 Act, the "Development Plan" comprises the Regional Spatial Strategy and the Development Plan.

Although this statutory duty is clear, planning decisions depend to a greater or lesser degree upon judgement and interpretation of policies and guidance. It is therefore essential that decisions are made having regard only to proper planning considerations, impartially and in a way that does not give rise to public suspicion or mistrust.

The same principles apply to decisions and recommendations that are made by Members and Officers in relation to the development plan process, particularly decisions and recommendations which might involve the allocation and thus the value of land.

The purpose of this local Code of Practice is therefore to set out in detail how Members and Officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner, but are also seen to do so.

This Code has been prepared with a particular emphasis on Members who serve on the Council's Planning Committee but its content is also relevant to all other Members and also to Officers both within Planning Services and in all other service units. In short, any Member or Officer who has any contact with, or input in to, the Planning process including the Development Plan and during discussions with landowners and developers has a probity responsibility. It should be noted that there are other rules and requirements in respect of Officers.

The City Council, along with all other local authorities, has adopted a Code of Conduct, which specifies the obligations imposed on Members and defines pecuniary and non-pecuniary interests and how these will affect the way a Member behaves. That Code of Conduct, which every Member has signed up to, is the statutory base to which this Code of Practice is added. In some areas this Code of Practice will extend, or go further than the Code of Conduct. In the case of a conflict between the two the Code of Conduct will take precedence.

It is possible that breaches of this Code of Practice could be considered to be a breach of the Code of Conduct.

This Code of Practice forms part of the Council's Constitution, which sets out how the Council will operate, how decisions are made and the procedures to be followed in order to ensure that these are efficient, transparent and accountable to local people.

A copy of the Council's Constitution can be viewed online at:

www.gloucester.gov.uk

PART A – GENERAL PRINCIPLES

Gifts and Hospitality

- A1. *Councillors and Officers must abide by the Council's requirement in respect of Gifts and Hospitality as set out in the Code of Conduct for Members and the Officer Code of Conduct which are part of this Council's Constitution.***

Members and officers must be extremely careful in this respect to ensure that no question of bias can be raised. The general rule is that no gifts should be accepted and only modest hospitality connected with the work concerned should be accepted.

Declarations of Interest

- A2. *Members must always declare their interests in accordance with the Council's Code of Conduct.***

The Council adopted its Code of Conduct on 19 July 2012. The Code of Conduct is contained in the Council's Constitution and must be read in conjunction with this Code of Practice.

All interests must be disclosed at the start of the meeting or when such interests become apparent, and an agenda item on this is included for every meeting.

Depending on the nature of the interest (disclosable pecuniary interest, non-disclosable pecuniary interest or personal interest), the Member may not be allowed to participate in the discussion or vote on the matter unless a dispensation has been granted. They must also not seek to improperly influence any decision on that matter.

The test Members should apply is not whether they themselves think they have an interest but whether others, knowing the relevant facts, would think they have. If a Member has any doubt advice can be taken, but if that doubt still remains it is best that an interest be declared. However, the responsibility for declaring an interest must lie on the Member.

There will however, be times when it only becomes apparent during the meeting that there is a declarable interest. Then the interest must be declared as soon as the Member becomes aware of it, even if it is during discussions on that particular item. The duty is on each Member to declare interests and these will be noted in the Committee minutes.

The Monitoring Officer should be informed of any declarable interests which should also be registered in the Register of Members' Interests.

Involvement with Agents, Developers and Landowners

- A3. *Councillors and Officers who are involved in the planning process should not act as agents to other parties, or submit planning applications, objections and/or Development Plan representations on behalf of other parties or volunteer bodies.***

Any close involvement, or even perception of close involvement, with a planning application or proposal can compromise the integrity of the planning process. A Member acting as a planning agent could give rise to suspicion that the Member was not impartial, or may influence other Members in the decision making process.

Where Members need to submit Planning applications or Development Plan representations on their own behalf, or on behalf of their employer as part of their job, they must declare an interest and take no part in the processing of the application or in the decision making process. Decisions on any proposals submitted by or relating to land owned or controlled by a serving Member should only be determined by the Planning Committee (or Full Council).

The same rule applies if a Member's employer submits an application, irrespective of whether the Member is involved in the application, its preparation or submission.

There will be very rare occasions when planning decisions need to be made by Full Council, not Planning Committee. In such instances, any Councillor who has acted as an agent or

submitted the application being considered whether personally or on behalf of another party should declare an interest and take no part in voting on the matter.

- A4. Any Member who is a planning or similar agent will not be appointed to either the Planning Committee or Member Working Group and should not be nominated as a substitute. At Cabinet/Council meetings any Councillor who is acting as a planning agent should declare this role and withdraw from any discussion/decision where a clear conflict of interest can be seen to exist.**

Even if they do not practice in Gloucester, the Member will not be appointed to the Planning Committee. This is in view of the potential for members of the public to view their work as possibly affecting their consideration of planning applications and Development Plan matters.

- A5. Councillors or Officers should not enter into a commercial agreement with a developer or landowner in respect of a particular development opportunity as to do so would bring into question the integrity of the planning process.**

Clearly, significant sums of money can be made through the development process and it is vital that Councillors and Officers do not seek to enter into any sort of agreement with a landowner/developer in relation to the promotion of a development site, as to do so would bring into question the integrity of the planning process.

- A6. Members should not seek to advise applicants or agents about the likely acceptability of planning proposals including potential planning applications and land use proposals that are being promoted through the Development Plan process.**

Pre-application discussions should always be undertaken by the Council's Planning Officers to ensure that advice is given professionally, comprehensively and in a way that is clearly removed from the political forum. Planning Committee Members should advise prospective applicants to contact the appropriate Officer for advice on both merits and procedures. If Members do give an indication of their initial reaction to a proposal they must make clear that any proposals will need to be formally considered by Officers and/or the Planning Committee. They should also make clear that Officers and/or the Planning Committee could only make a final decision after a full and formal consideration of the proposal.

Similarly with regard to negotiations and discussions in respect of submitted applications Members should not normally be involved. There may be exceptional circumstances in respect of major or contentious applications where there may be merit in Member involvement to explain a particular local viewpoint or issue. However such discussions should take place only where at least one professional Planning Officer is present. Officers will make a written record of any such meetings held and will place a copy of this record on the office working file. Such a record will constitute a Background Paper for the purposes of the Access to Information Act and may be inspected by any member of the public.

The fact that Planning Committee Members have discussed any such proposal with the applicant or objectors must be made clear when the application or Development Plan matter is before the Committee for determination. Under no circumstances should Members put pressure on Officers to make, or change, any recommendations on an application or Development Plan matter.

- A7. Following the submission of a planning application or Development Plan representation, Members should not themselves, enter into negotiations with the applicant/objector but should leave any such negotiation to Planning Officers.**

The Council employs professional Planning Officers whose job is to deal with the applications and Development Plan representations received, ensure the necessary publicity requirements are dealt with, negotiate with the applicant and/or their agents, and then report to Committee with their recommendations.

The Officers do have pre-application discussions which will try to assist applicants to submit applications in accordance with Council policies and to assist with the smooth processing of the application or consideration of Development Plan representations.

The Officers will always put forward their professional planning view to Committee and be available to answer Members' questions.

A8. Officers will not enter into negotiations concerning any land or proposal in which they have a direct or indirect interest.

Clearly, such a situation would give rise to suspicion that the Officer in question was not necessarily acting in an entirely impartial manner and will therefore not be acceptable.

A9. Subject to the requirements of the Freedom of Information Act or any other relevant legislation, Councillors and Officers should seek to respect the wishes of landowners and developers who intend their proposals to remain confidential until such time as there is a legal obligation to make any such proposal known such as the submission of a planning application or the formal publication period in respect of the Development Plan.

There may be occasions when developers or landowners wish to seek the views of Councillors and/or Officers concerning particular development proposals, but wish to do so in an entirely confidential manner due to commercial or contractual requirements.

Councillors and Officers will respect such wishes and will only make the proposal known publicly either when the developer agrees or alternatively when there is a legal obligation to make such information available, for example where it has been requested by a third party under the Freedom of Information Act.

A10. Officers and Members will exercise particular care in relation to telephone conversations concerning planning matters. Where practical, a note should be completed and filed immediately after the conversation.

In some instances, those involved in the same telephone conversation can come away with entirely different recollection of the issues discussed. For the avoidance of doubt, it is considered appropriate for Officers and Members to complete a short file note following any telephone conversation had with a developer, landowner or other interested party.

Meetings with Agents, Developers and Landowners

A11. Members should try not to meet a developer or landowner alone. Where this is unavoidable, particular care should be exercised and where practical, the content of the meeting recorded as accurately as possible.

In order to ensure the integrity of the planning process it is considered inappropriate for Members to meet a developer on their own. At least two representatives of the Council should be in attendance (including at least one Officer) in order to ensure that an accurate record of the meeting may be made.

A12. Where Councillors and / or Officers are invited to attend meetings by landowners and developers, accurate and comprehensive records of any such meeting must be kept for a reasonable period of time (i.e. at least 12 months after the completion of the Development Plan process or the determination of a planning application).

In the event that a Councillor and Officer are invited to attend a meeting held by a landowner/developer, they should at all times act in an impartial manner and should keep a record of the meeting on an appropriate file. In the interests of transparency and accountability it is vital that detailed records of any meetings are kept until the completion of the Development Plan or planning application process. This will ensure that any subsequent queries can be answered with certainty.

A13. Members and officers meeting a developer must make it clear that any discussions held during meetings cannot bind the Council to any course of action.

It is essential that any view expressed during a meeting is not taken to represent the view of the City Council as a whole.

A14. Similarly, in discussing specific developments/localities/topics with developers, Members and Officers must act without prejudice, taking into account and basing any opinions expressed, on relevant planning issues only. This principle must apply throughout the Council's decision-making process.

It is vital that any opinions expressed about particular development proposals are made without prejudice, are based on the most appropriate use of a site in planning terms and Members in particular must avoid expressing a view on granting, or refusing, the application.

In cases where a 'Project Management Board' has been established under the Prince 2 project management system to deal with a development proposal, the following principles will apply to meetings with developers, agents and landowners:

A15. All meetings will be properly and accurately recorded and reported to the respective Project Boards.

A16. Appropriate members of the respective Project Board must normally be invited to attend. This would likely be the Project Manager and/or Executive.

A17. In the event of a project board member being unable to attend, advice on the current status of the project should be sought by the Member/officer concerned.

A18. Senior Members/officers involved in the meeting must make themselves familiar with the Project Business Case, and at all times recognise the primacy of it in any discussions which should be complementary to the direction of the project.

A19. Records of all discussions and meetings should be provided for the specific Project Manager who will ensure it is placed on the file records.

For reasons such as policy formulation and access to project documentation and officer support, it is recognised that opposition Members may not be able to fully adhere to all of the requirements set out in points A15 – A19 above. In these circumstances, the following general principles should be applied:

A20. The general spirit of propriety within the Code of Practice should be respected.

A21. The integrity of the Council must not be compromised.

A22. No promises or indications of positions which would, or may be adopted should be given which may lead a potential developer to believe that, at some future date, the policy of the Council would favour any development scheme or developer.

A23. Members must not negotiate with developers or landowners on planning policy and must adhere to Council policies.

Independence and Impartiality of Planning Officers

A24. Officers must always act impartially and advise the Council of their professional opinion.

The City Council's Planning Officers must always act impartially to give advice based upon a professional assessment of the Planning merits of each case taking in to account the relevant planning policies and other relevant material considerations. If they do not, or even if it appears that they are not, the integrity of the Planning process is severely compromised. Chartered Town Planners must abide by the Royal Town Planning Institute's Code of Professional Conduct.

Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings. Whilst Chartered Town Planners may appear as the Council's expert witnesses to present the Council's case at Planning Inquiries they must, if asked, give their own professional view in accordance with the Royal Town Planning Institute's Code of Professional Conduct. This is particularly pertinent where an

appeal has been made against a decision made against Officer recommendation although Officers will always present the Council's case to the best of their ability.

Submission of Planning Applications and Development Plan Representations by Officers and Councillors

A25. If an Officer or Councillor submits a planning application, an objection to a planning application or a representation in response to the Development Plan, he or she cannot deal directly with that application or representation.

Any close involvement, or even perception of close involvement could compromise the integrity of the planning process and may give rise to suspicion that the Officer or Member in question was not necessarily acting in an impartial manner.

A26. In considering planning applications, objections and Development Plan representations submitted by Councillors and or other Officers, Planning Officers will make no distinction between these and any other cases.

Clearly, no distinction should be made between a representation or planning application received from a Councillor or Officer of the Council and one which has been received from a member of the public or landowner.

Any decision will therefore be based solely on relevant planning issues with no regard had to any indirect or direct connection between the applicant/objector and the City Council.

A27. Applications by Councillors, Officers or their Relatives or Friends

These applications must be dealt with, and be seen to be dealt with, openly, fairly and without any bias. Accordingly despite the scheme of delegation to officers to decide certain application, all such applications will be reported to Committee.

PART B – THE DECISION MAKING PROCESS

Lobbying of Councillors

B1. Any lobbying of Members must be dealt with carefully to minimise any perception of influence

This is a complex area and one that requires special care. Lobbying is an attempt to influence a Member's view by way of letter, telephone call, meetings or documents in order to achieve a particular decision. It can be by applicants, or their agents, objectors or other Councillors. It is a normal part of the political process but where Members are making statutory decisions, such as planning decisions it can result in decisions being made improperly.

Members should treat lobbying with care and should ensure that 'unofficial' views, promises or documents do not unduly influence them. Members should advise lobbyists to present their views in writing to the relevant Planning Officer. Alternatively, Members may choose to pass on the views and or submissions of lobbyists to the relevant Planning Officer but in doing so should make it clear that they are not giving their own views as this is a matter for formal consideration by Members.

Members should take particular care when attending public meetings and should remain impartial without expressing a view one-way or the other. Where the view of a Member on a particular development proposal has been expressed in public, this must be declared by that Member when the matter is next considered by Planning Committee, Cabinet or Council.

Planning decisions must be made strictly on the basis of the facts and policies relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular, Members must not prejudge proposals before they have read the officer's reports and considered all the evidence.

It can cause particular problems if Members are given information or assurances by applicants that are not part of the formal application or proposal and which are not therefore enforceable. Problems can also arise if Members are given information by objectors which may be misleading untrue or irrelevant. It is also problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability.

This would cause particular problems if the Committee based a refusal on those matters which officers had not had an opportunity to consider and comment upon.

Circulation of unofficial papers at a Committee meeting also constitutes lobbying. Planning applications must be determined on the basis of the documents and information formally submitted. Only submissions from applicants, agents or objectors, which are formally received by Planning Officers, can properly be taken into account in making a decision. The Committee could be materially misled if Members or other parties circulated 'unofficial' documents or introduced new information on behalf of an applicant or objector, or expressed what they believed to be an applicant's intention, if this did not form part of the application documents and correspondence which had been submitted to Development Control. In all circumstances copies of any letters, documents or correspondence should be given to the Planning Officer to consider and comment on.

B2. *Planning Committee Members should not organise support for or against a planning application and should not lobby other Councillors.*

Planning Committee Members should not place themselves in a position where they may give the impression that they had made up their mind before hearing the evidence. Each Councillor should make up his or her own mind on the evidence and facts presented to the Committee. With regard to other Councillors, they must not seek to influence Planning Committee Members or give that impression.

B3. *Councillors or Officers within the Council must not instruct or put pressure on Planning Officers to make or not to make a particular recommendation on a planning application or matter relating to the Development Plan including in particular the allocation of land.*

The City Council's Planning Officers must always act impartially to give advice based upon a professional assessment of the planning merits of each proposal taking into account relevant planning policies and other material considerations. If they do not, or even if it appears that they are not, the integrity of the planning process is severely compromised.

Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings.

B4. *Where a Member has been actively lobbied through the submission of written correspondence, any such correspondence should be reported to other Members and Officers when the matter is discussed at Planning Committee, Cabinet, Council and any other relevant meeting.*

Where lobbying has occurred, the Councillor who has been lobbied should make other Councillors involved in the decision making process, aware of such an approach as well as Officers who may be responsible for making recommendations in respect of the proposal in question.

Reports to Planning Committee/Cabinet/Council

B5. *Officers will, with the exception of matters of urgency, provide written reports for all matters to be considered by the Planning Committee, Cabinet and Council and where appropriate for any Member Working Group.*

There will be occasions when matters arise after the committee papers have been prepared and sent out, but a decision of Committee will be required. If possible a written report will be tabled, or if this is not possible the Development Control Services Manager will provide a detailed verbal report on the issue, explaining why it is urgent and providing recommendations. This shall be minuted.

Members are also permitted to raise matters of urgency under the Local Government Act 1972. However if they do intend to do this, the Planning Officers should be informed prior to the meeting of the nature and content of the matter. Officers will attempt to answer any questions, but depending on the length of notice of the matter of urgency this may not be possible at that meeting.

Any matters of urgency can only be raised with the agreement of the Chair of Planning Committee who must give reasons as to why it is considered to be an urgent item.

B6. *Officer reports will always be accurate and cover all relevant considerations and issues including where relevant, the views of consultees and objectors.*

B7. *Reports to Planning Committee will each give a clear recommendation that will normally be that of the Development Control Services Manager.*

In exceptional circumstances where, at the time of publication of the report, negotiations are still ongoing or an essential consultation or other response is awaited, Officers will give an oral recommendation and this will be minuted.

If the report is not by the Development Control Services Manager the reason for this will be included in the report.

- B8. *Members must read and carefully consider the content of Officer reports before the relevant meeting and must have regard to the content of the report in reaching a decision. Where a Member or Members require further clarification on any particular matter, this should be raised with the Development Control Services Manager in advance of the Planning Committee meeting so that an informed response may be prepared and in order to avoid any unnecessary delay in the consideration of the application.***

Written reports are a cornerstone of probity in the modern Planning system. The Audit Commission and a number of reports in respect of Planning malpractice have made quite clear that written reports are essential.

Officers will therefore prepare written reports on all planning matters being considered by Planning Committee, Cabinet and Council.

Matters to be discussed by Members at a Working Group will generally be supported by a written report, however, on occasions, for the sake of expediency, it may be necessary to provide Members of the Working Group with an oral report.

Voting and Impartiality

- B9. *Planning Committee Members must vote in the planning interests of the City as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced planning assessment in the light of wider planning policies and planning guidance. The same principle applies to Members who are required to make decisions on matters relating to the Development Plan including Cabinet, Council and any Member Working Group.***

If the planning system is to work properly it is essential that in voting on all planning matters, Members do so based on the advice set out in the Officer report and not in the pursuit of their own personal or ward interests or even someone known to them. This is likely to be a breach of the National Code of Conduct and can lead to disqualification or other sanction.

- B10. *Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee.***

This can be a difficult issue for Members as they may be exposed to pressure from residents or the media to express a particular viewpoint. However it is essential that Members are measured and circumspect in the comments they make. If a Member declares which way they intend to vote it would in effect be pre-judging the application without having considered all of the relevant information. This could expose the Council to the possibility of legal challenge or charges of maladministration. Members must not make their minds up until they have read the relevant committee reports and heard the evidence and arguments on both sides, at committee.

B11. If a Member of the Planning Committee (including a substitute Member) does declare his or her OUTRIGHT support or opposition for a proposal before the matter has been put before the Planning Committee, he or she must make an open declaration of their view to the Planning Committee and take no part in the voting on that particular item.

This rule follows on from Rule B10 above. It does not mean that Members of the Planning Committee cannot reflect local concerns about a proposal before the Planning Committee considers it. However, the view or comment must not pre-determine or be seen to pre-determine the way that Member will vote.

B12. Councillors who may also be Members of either a Parish Council or Gloucestershire County Council must exercise particular care in reconciling their two roles in making decisions on planning applications and Development Plan matters.

Any Member serving a 'dual-function' must exercise great caution. They may, for example, be required to express a view or vote on a particular proposal at a Parish or County Council meeting and should in any such case, abstain from the debate/vote. This is not inconsistency, but the consequence of having to fulfil two totally separate roles.

If a Member does declare his or her outright support or opposition to a proposal through another forum such as a Parish or County Council meeting, they must make an open declaration when the matter is discussed at the City Council Planning Committee, Cabinet or Council meeting and take no part in voting on that matter.

The Code of Conduct must be carefully considered here. The interest is likely to be a disclosable pecuniary interest and could affect the Member's ability to participate in the decision.

B13. All Councillors must not favour or show, or appear to favour or show, bias towards any particular person, company or group, or any particular site or locality in the exercise of any planning function.

Decisions Involving Council-Owned Land

B14. In making decisions in relation to Council-owned land, Officers and Members will base their assessment on relevant planning issues only and will have no regard to financial or any other benefits that might accrue as a result. (This principle applies to both the determination of planning applications and the allocation of land through the Development Plan process).

The Council's own proposals, or those of others on Council owned land, must be dealt with on exactly the same basis as applications and representations submitted by any other applicant/landowner, particularly as there are special Regulations under which to consider them.

Members must not have any regard to any other benefit, financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal. All planning applications and representations, irrespective of the applicant, must be considered and dealt with on the planning merits, not any extraneous gain or loss that might accrue to the Council.

B15. In particular, Officers and Members will ensure that decisions to allocate Council-owned land are based on the most appropriate use or mix of uses and not on the basis of which use or uses would yield the highest land value.

Clearly certain land uses such as residential and retail in particular have a higher land value than others and as such it is important that in seeking to allocate land that is owned by the City Council, Officers and Members make any such recommendation and decision on the use that is most appropriate for the site given its location and surrounding uses and not with regard to which use will yield the highest land value.

B16. Other proposals that may have an impact on a Council land holding or proposal must also be dealt with strictly on their planning merits. (This principle applies to both the determination of planning applications and the allocation of land through the Development Plan process).

These circumstances present special challenges to ensure that the planning system operates, and is seen to operate, fairly.

Political Decisions

B17. Decisions on planning applications and Development Plan matters or the establishment of 'party lines' cannot be made in political group meetings prior to a Planning Committee or Cabinet/Council meeting.

The view of the Ombudsman is that 'the use of political whips at group meetings is contrary to the National Code and amounts to maladministration'. It could also give rise to a legal challenge to any decision by judicial review.

Deferrals and Committee Site Visits

B18. Where Members propose to defer the consideration of a planning application they must set out clear planning reasons for doing so and these will be minuted.

B19. All site inspections will be conducted in a strictly 'fact-finding' manner and there shall be no on-site debate about the merits of the proposal or any negotiations or discussions with the applicant, agent or residents.

B20. In the event that a site visit is considered necessary to assist Members in deciding on a matter relating to the Development Plan, the same principles will apply.

A proposal to defer an application must be made on clear planning grounds. Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed or to secure amendments without which the application would have to be refused. The reason for deferring for a site visit must be clearly set out by the proposer and recorded in the minutes. Political expediency such as deferring a contentious application until after elections is never an acceptable course of action.

Committee Process

B21. The Council's Standing Orders will apply to the conduct of business.

There are also some good practice rules to assist the smooth operation of the Committee and promote probity. These are:

- Members should not report new information that they may have been given by applicants or third parties, which has not been submitted to Officers for formal consideration and comment.
- Members should seek any necessary clarification from Officers on key issues **before** the meeting as this enables fuller and better-researched answers to be given.
- Members should not introduce non-planning related matters to the debate.
- Members should not speak at length on items where they are in full agreement with the Officer report.
- The Chair will always afford Officers the opportunity to respond to questions and points made by Members.
- At the discretion of the Chair of the Planning Committee, Ward Councillors may be allowed to speak at Planning Committee to express their own views or those of their constituents.

B22. *Speaking at Planning Committee*

The Council permits applicants and objectors the right to address the Committee for 5 minutes prior to the consideration of an application by the Committee. Generally speaking, only one person for, and one person against, the application may speak and only on planning considerations and matters raised with officers beforehand. Occasionally, at the discretion of the Chair, more than two speakers may be permitted although an equal amount of time for speakers for and against will be allowed.

If there are a large number of supporters, or objectors, then generally only one representative of each may address the Committee unless otherwise agreed by the Chair to speak. Their names must be provided to the Chair prior to the Committee starting. Ward Councillors will be allowed to speak on an application at Planning Committee provided that they do not have a prejudicial interest. The Council has prepared a separate guidance note on the procedures to be followed in speaking at Planning Committee. This is available from the Planning Department and is also online.

Planning Committee Decisions

B23. *Where Members propose to make a decision contrary to the Officer recommendation, clear planning reasons must be established and these must be seconded and minuted.*

The Member, or Members, proposing the decision contrary to the report recommendations, must give clear planning reasons for their proposal before any vote is taken. Their reasons must be relevant and material planning considerations.

B24. *In cases where Members propose to make a decision contrary to an Officer recommendation, the Chair will allow the Development Control Services Manager to comment before a vote is taken.*

It is a requirement of the Town and Country Planning Act 1990 and the 2004 Planning and Compulsory Purchase Act that decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. However, decision-making often requires assessment and judgement of the weight to be attached to certain policies and issues and no Development Plan no matter how current will ever provide an answer for all, or even most, applications. Any decision contrary to the provisions of the Development Plan must be clearly justified and recorded. The personal circumstances of an applicant will hardly ever provide such grounds.

These principles do not apply directly to decisions pertaining to the drafting of the Development Plan. However, there will be occasions when Members make decisions that are not in accordance with the recommendations of Officers. In such cases, the general principles set out above will apply, in particular, the reason for the decision must be justified and minuted.

Public Attendance

B25. All planning matters on Planning Committee, Cabinet and Council agenda will be considered in public session.

Open debate is a fundamental pre-requisite of probity in the planning system.

Applicants, agents, supporters or objectors to an application do have a right to address the Planning Committee, but this is limited to one in support and one in opposition. Other than this no other person shall be allowed to speak or make recommendations at the Committee. Any member of the public who disrupts the meeting in any way will not be allowed to remain in the room.

B26. Great care should be taken by Members mingling or speaking to applicants or objectors.

Members should be extremely careful in meeting with and talking to applicants or objectors either before or after the meeting. This could give the impression that Members had either prejudged a particular application, or had supported a particular view without looking at, and taking into account all the facts presented by the Planning Officers.

PART C – ADMINISTRATIVE MATTERS

Member and Officer Training

C1. *Any Member who is on the Planning Committee must take part in regular training.*

Members who are exercising powers to grant or refuse planning applications are exercising a quasi-judicial function in an area where there is considerable Government advice and law. Members must ensure they are adequately trained to carry out the task. Accordingly any Member who is on the Planning Committee must take part in training organised by the Development Control Service either before the first meeting of the Committee or within 3 months after being nominated to serve on the Committee, whichever is the later. If they do not, or cannot, they must step down. All Members (including substitute Members) who sit on the Planning Committee must attend refresher training at least once every 3 years. Any Member of the Planning Committee who has not undergone refresher training in accordance with this Code of Practice will not be permitted to vote on any planning applications. Accurate records of Member training will be kept by Planning Officers.

C2. *Planning Officers will undertake training and provide advice to ensure that Members are sufficiently well informed on the implications of the Development Plan system prior to their consideration of Development Plan matters.*

C3. *Councillors will in return undertake to educate themselves on the implications of the Development Plan system including carrying out appropriate research from independent sources such as the Government's 'Planning Portal' website.*

C4. *Councillors are encouraged to attend any training sessions that are organised each year. Members are also encouraged to research pertinent issues by reference to the Development Control Services Manager who can arrange access to publications, legislation, policy documents and practice notes.*

C5. *Members will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally, at meetings, or as briefing notes.*

Record Keeping

C6. *Officers will ensure that planning application files contain sufficient information itemising events so that the reason for the ultimate decision can be understood by anyone who reads the file without a detailed knowledge of the application.*

Complaints

C7. *Any complaints received in writing about the way in which a planning matter has been dealt with in terms of procedure and fairness will be investigated under the Council's Complaints Procedure.*

C8. *Where a complaint is not considered to warrant a full investigation under the Council's Complaints Procedure, Officers will in any case endeavour to explain the reasons for the Council's decision.*

The fact that someone may disagree with the decision the Council has reached is not a complaint which will necessitate investigation as such, although officers will endeavor to explain the reasons for the Council's decision in any particular case.

Where any complaint about a Council decision made contrary to the officer's recommendation is received, a copy will be forwarded to the Chair of the Committee. Complaints can also be made to the Local Government Ombudsman regarding administrative maladministration, or the Audit and Governance Committee regarding breaches of the Code of Conduct.

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