CODE OF CONDUCT ON PLANNING MATTERS
FOR COUNCILLORS AND OFFICERS

1. INTRODUCTION

1.1 The Code of Conduct is in addition to the National Code of Local Government Conduct and Guidance on Good Practice on Councillors' Interests. The Code is set out in the form of a series of headings with a brief outline of the issues involved, followed by best practice advice.

2. LOBBYING

2.1 Lobbying, or seeking to influence a decision, is a normal part of the political process. However, it can lead to impartiality being brought into question and the need to declare publicly that an approach of this nature has taken place. Problems could arise if Councillors indicate or give the impression of support or opposition to a development proposal or particular planning application, or declare their voting intention, before a decision is to be taken. To do so without all relevant information and views would be unfair and prejudicial. Lobbying can take place by professional agents as well as unrepresented applicants/landowners.

2.2 In general terms the following best practice points and guidance note apply to both situations.

- care should be taken in expressing an opinion on any planning proposal. Councillors should always indicate that they will keep an open mind until all the facts are known and that they have heard both sides of the argument. Before this stage it is better to restrict themselves to giving procedural advice directing those who are lobbying to write to the Council so that their representations can be included in the Officer's report.

- Councillors who find themselves in a situation which is developing into lobbying should always explain that whilst they can listen to what is said they are required to keep an open mind and are constrained from expressing a firm point of view or an intention to vote one way or another, otherwise they will have to state their position at the Committee meeting and not take part in the subsequent decision.

- Any discussions with lobbyists should make clear that a Councillor's comments are personal, rather than those of the Council, and provisional pending other evidence, consultations and officer advice.

- If Councillors choose to visit sites prior to the Committee they must have regard to the principles outlined above and in order to ensure openness and fairness they should consider whether to visit a neighbouring objector's property also. It may be better not to accept invitations to view sites if Councillors believe that this could be used as an opportunity to exert undue pressure by an Agent or applicant.

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- Councillors should not negotiate detailed planning matters with lobbyists.

- It is perfectly acceptable for a Councillor representing the electoral division in which the application lies (the local Councillor) or a Councillor who in an official capacity has expert or detailed knowledge of a relevant matter to address the Planning Committee but it is inappropriate for Councillors to organise support or opposition or to lobby other Councillors informally.

- Councillors should ensure that they are not perceived by the public as having prejudged a matter as a result of views expressed on behalf of a political party of which they are a member.

- Councillors should not act as an advocate or agent for planning policy matters to be determined by the Council.

- Councillors should not put pressure on officers for a particular recommendation. The recommendation and the decision are separate parts of the same process which should be justified by the report and the debate respectively.

3. APPLICATION DISCUSSIONS

3.1 Local authorities are encouraged to enter into pre-application discussions with potential applicants by the Audit Commission, the Local Government Associations and the National Planning Forum. In addition, negotiations and discussions are likely to be ongoing after an application has been submitted. Such discussions can often be interpreted by the public and especially objectors, as prejudicing the planning decision making process. In order to allay such perceptions, application discussions should take place within clear guidance as follows:-

- Pre-application discussions should generally be conducted at officer level; where confidentiality is requested this will be respected at this stage.

- It should always be made clear at the outset that any discussions are on a without prejudice basis and where Councillors are involved any views expressed by them are personal and provisional.

- It should always be made clear that advice given by planning officers is subject to review at a more senior level and in the light of any additional relevant information that might come forward.

- Advice given should be consistent; and based upon the Development Plan, Government planning policy guidance and any relevant material considerations.

- A written note should be made of any meetings and placed upon the relevant file - 2 or more officers are to attend potentially contentious meetings and a follow up letter is advisable, at least where documentary material has been left with the Council.

- Care must be taken to ensure advice is not partial and if requested it will be confirmed in writing.

- Where Councillors are asked to attend public meetings in connection with the preparation of the Structure Plan and the Local Plans it shall only be as an observer and their contribution shall be confined to explaining procedure.
Councillors and/or Officers are asked to attend public meetings in connection with a planning application the same restrictions shall apply.

- The involvement of Councillors in such discussions should be recorded in any subsequent Committee report.

4. DECLARATIONS OF INTEREST

4.1. Pecuniary Interest

Councillors must always declare any direct or indirect pecuniary interest they (or their spouse) have in relation to any matter under discussion and must withdraw from the meeting during the consideration of that item. It is a criminal offence to fail to declare any such interest or to speak or vote in relation to the matter.

Indirect pecuniary interests include:

- ownership of shares in a company which, for example, has applied for planning permission or itself owns any land under discussion. (There are certain limited exceptions where the numbers of shares is very small).
- being an employee of any person or company which has a pecuniary interest.

4.2 Non-Pecuniary Interests

Personal or private interests may relate either to a Councillor or to members of their family. Examples where declarations should be made include:

- close personal friendship or acquaintance with an applicant for planning permission or an objector, or person with an interest.
- Membership of the same club or organisation as some other person, such that close acquaintanceship might reasonably be inferred.
- Regular business dealings with some other person.
- Living or running a business in proximity to a particular site such that you might be affected by any proposals in respect thereof.
- Being a member of an organisation which has applied for planning permission (unless you are there solely as a representative of the Council).
- Councillors who have a personal or private interest should also refrain from discussing the matter with other Councillors or with Officers.

Further guidance on declarations of interest may be obtained from the Council’s Legal officers.

4.3 Interests of Officers

- Care should always be taken to avoid any suspicion that an Officer recommendation may have been influenced by improper motives.
Any officer who has a private or personal interest which, in the case of an elected Councillor ought properly to be declared under the National Code of Local Government Conduct, should immediately inform their Head of Service or Director who, in consultation with Monitoring Officer, will determine whether the officer should take any further role in relation to that matter.

5. DISTRICT AND PARISH COUNCIL MEMBERSHIP

5.1 Some Councillors will be members of parish or town or district councils who are consulted on planning applications. Whilst the comments of these councils should concentrate on local issues, Councillors can come under pressure to indicate their support or objection to a particular proposal. It is quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information is made available in the officer’s report to the Planning Committee. In these circumstances the following advice is offered:

- Councillors who are also members of parish/town councils should continue to offer advice and assistance when planning applications are being considered but should avoid giving a clear indication of support or objection. District Councils will be advised by their own officers.
- Councillors should assure the parish or town council that they will ensure that the officers and relevant planning Committee members are aware of the Council’s views and reasons for their views.
- Councillors should clearly explain to parish or town councils that they have not decided upon their final voting intention until all the relevant information is presented to them.

6. COMMITTEE PROCEDURES AND CONDUCT OF MEETINGS

6.1 The procedures governing the conduct of Council meetings is already set out in Standing Orders. However, the general public who attend these meetings will usually not be familiar with Standing Orders and it is therefore important that the impression given is always one of an orderly meeting, where it is clear that decisions are being made on matters which are relevant and that Councillors and Officers fully understand the reasoning. The following best practice guidelines will assist in this aim.

- Chairman’s Briefings should be held after the Agenda has been set and officer’s recommendations made; the Chairman will decide the people to make presentations and whether site visits should be held before the matter comes to Committee.
- A legal officer to be present at Planning Committee meetings where circumstances dictate.
- Structured reports to Committee for planning applications shall set out all relevant points, development plan policies, site or related history, and other material considerations and contain a clear recommendation with an explanation of the reasons for it.
- Verbal updating should be carefully minuted particularly when this leads to a change in recommendation.
• If the recommendation is contrary to the Development Plan the material considerations which justify this must clearly be stated.

• Where decisions are to be delegated to officers or officers in conjunction with Councillors, this should be clearly specified and the arrangements detailed in the Minutes.

• Terms of reference of Section 106 or any other Agreements must be explained openly and recorded in the minutes.

7. DECISIONS CONTRARY TO OFFICER RECOMMENDATION

7.1 When decisions are made contrary to officer recommendation the Committee shall make clear the reasons for making such a decision at the time. This shall be minuted, thus ensuring that all decisions are supported by a written explanation.

• Where a Councillor is minded to move a recommendation which is contrary to the officer recommendation, to avoid a deferral, in the case of a refusal, clear planning reasons should be given and in the case of an approval, an indication of the acceptable conditions. For the avoidance of doubt it is possible that the decision could be delegated to the Director of Environmental Services, in conjunction with Chairman, Vice Chairman and local Councillor(s) if necessary, to finalise detailed wording of reasons or conditions.

8. SITE INSPECTIONS

8.1 Site inspections by the Committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to the decision. They will always be held in relation to major new proposals for mineral workings or waste treatment/disposal and in other cases where

• the character or appearance of the development itself is a fundamental planning consideration.

• A judgement is required on visual impact.

• The setting and surroundings are fundamental to the determination or to the conditions being considered.

• From time to time visits will take place to approved operational developments to assess the efficacy of conditions and learn by experience.

Any member of the Committee may request a site visit, but the reasons relating to the above criteria must be stated and will be minuted. Site visits will not be agreed to lightly; a majority vote will decide.

Only members of the Planning Committee and the Local Councillor may take part, together with supporting officers.

If the Chairman decides in advance that a representative of objectors e.g. the Parish Council can have an opportunity to address the site inspection Committee, a similar opportunity must be afforded to the applicant's representative.
Conduct of Visits

- Chairman or Vice-Chairman will open the visit, and advise Councillors of purpose and conduct.
- Officers will highlight issues relevant to site inspection.
- Local Councillors will be asked to highlight local issues relevant to site inspection.
- Chairman or Vice Chairman to end visit.

General Matters

- There will be NO debate about the merits of the application.
- NO hospitality will be accepted.

9. DELEGATION TO OFFICERS

9.1 In recognition of the duty to determine applications within 8 weeks from registration a scheme of delegation to officers has been prepared. This covers approval of uncontroversial proposals for County Council developments and other minor non-controversial proposals, including details required to be approved by conditions of extant consents.

10. CONDUCT OF OFFICERS

10.1 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. This Code obliges RTPI members to give professional and independent recommendations.

- Planning officers who work closely with Councillors have to ensure that their professional judgement is not compromised by the nature of their professional relationship with members.

11. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS AND COUNCIL DEVELOPMENT

11.1 The advice in this Section applies both to planning applications and Development Plan policy matters.

- Serving Councillors and officers should never act as agents for people pursuing a planning matter within their authority. Should they submit their own proposals to the authority they serve they should declare the interest to the Monitoring Officer and take no part in its processing.

- Such proposals and the fact that a declaration of interest has been lodged should be identified on the relevant planning files.

- Development proposals by the Council are to be treated in the same way as those by private developers particularly in relation to officers’ advice.
• Where a Council development is being considered Councillors who sit on both the initiating and planning Committees should declare a corporate interest when the matter is considered by the Committee.

12. DEALING WITH THE MEDIA

12.1 The Council has a Public Relations Officer who can provide assistance to both officers and Councillors in their dealings with the Media. However, there will still be direct contact and pressure from the Media. Councillors and officers, when commenting on planning matters should:

• Have regard to the points outlined in the Section on Lobbying and this Code in general.

• Make clear that they will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee of the Council.

• Make clear that any views expressed are personal and not offered on behalf of the Council, unless they are made as the authorised spokesperson on a particular matter.

13. REVIEW AND MONITORING

13.1 The effectiveness of this Code will be monitored in the following ways:

• Any outcome of the consideration of complaints made under the Council’s complaints procedure, or where the Ombudsman has decided to investigate, will be made known.

• Regular monitoring of planning files to ensure complete and accurate record keeping.

NOTE: Further advice to Members from the Head of Legal Services on dealing with planning proposals and applications is included separately in this section.