

# Protocol for the Guidance of Planning Committee Members and Officers

## **1.0 General Role and Conduct of Councillors and Officers**

- 1.1 Councillors are accountable to the electorate while Officers are accountable to the Council as a whole. Officers advise Councillors and Council also carry out the Council's work.
- 1.2 Both Councillors and Officers are governed by Codes of Conduct. The Authority's Code of Conduct for Members (the Authority's Code) provides guidance and standards for Councillors. Breaches of the Authority's Code may be regarded by the local Ombudsman as maladministration and may result in a complaint being made to the Standards Board for England or to the Council's Standards Committee.
- 1.3 Officers who are members of professional bodies are subject to rules of conduct, breaches of which may result in disciplinary actions.
- 1.4 In addition to the above codes, Councillors and Officers must carry out their duties in accordance with the Council's Standing Orders and Rules which set down the actual rules which govern the conduct of Council business and of course there is the legislation contained in the Local Government Acts themselves.
- 1.5 Some Councillors may in addition to the above find that there are still more codes of conduct which affect them individually such as the advice notes issued by the Co-operative Union Ltd in respect of Co-operative Councillors Pecuniary and Non-pecuniary Interests.
- 1.6 It is important for Councillors to understand who they represent and whose views they should consider. Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors must therefore represent their constituents as a body and vote in the interests of the whole district.
- 1.7 Councillors should not favour any individuals or groups and although they may be influenced by the opinions of others they alone have the responsibility to decide what view to take and the manner in which they cast their votes.

## **2.0 Training**

- 2.1 There is a strong expectation that members of the Planning Committee (including Substitute members) will undertake training every two years updated by internal training.

### **Lobbying**

Problems should not arise if Councillors simply listen to a point of view about a planning proposal and provide procedural advice (in particular referring the person to Officers if he or she is a member of the public and not professionally represented). Those members of the public who have sought professional representation should be

encouraged to make any points concerning their application through their professional advisor.

Planning Councillors could find themselves in a difficult situation at a later date if they indicate or give the impression of support or opposition to a proposal or declare their voting intention before a decision is to be taken as this could be taken to be pre-determination of the outcome. It is important that all decisions should be made after all relevant information and views have been taken into consideration.

Planning Councillors should not organise support or opposition, lobby other Councillors or act as an advocate or put pressure on Officers for a particular recommendation (although a Councillor may address a Planning Committee under Council Procedure Rule 24.1).

Planning Committee Members who find themselves in a situation which is developing into lobby should actively take steps to prevent this happening or at least explain that whilst they can listen to what is being said they are constrained from expressing their point of view or an intention to vote one way or another, otherwise they may well have to declare an interest and not take part in the subsequent Committee decision. In a case where this has actually happened the Member should declare accordingly.

Councillors who are unsure whether an interest should be declared or not should seek legal advice (which may be obtained from the Council's Monitoring Officer), although the ultimate decision rests with the individual councillor and nobody can make the decision on their behalf.

#### **4.0 Site Visits**

- 4.1.1 A site visit should only be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting material (including photographs taken by Officers) and is primarily to allow Members to see the site for themselves.
- 4.2 Site visits may cause delay and additional costs and should only be used where strictly necessary.
- 4.3 Planning Committee Members should endeavour to keep together as a group and not engage individually in discussion with applicants or objectors or their professional representatives. Any discussion by Members should be confined to any explanation of things seen on site. Any other discussion should take place within the Committee meeting at which the application is being considered.
- 4.4 A site visit should consist simply of an inspection by viewing Members with Officer assistance in the presence of the applicant and any objectors, or even an unaccompanied visit (ie without applicant and objectors), as the main purpose of a site visit is to see the subject matter of the application.
- 4.5 Any discussion at a site visit other than pure explanation of things seen may be construed as lobbying (see above).
- 4.6 No public speaking will be permitted at site visits but a Ward Member (or another designated Member) and a representative of Parish/Town Councils may be permitted to share information.

- 4.7 A statement will be read out before the commencement of a site visit, making it clear what the purpose of the visit is, and the limitations that exist on the business that can be transacted during that visit.

## **5.0 Hospitality and Gifts**

- 5.1 The basis of the planning system is the consideration of private proposals against wider public interests and opposing views are often strongly held by those involved. Whilst Councillors should take account of those views they should not favour any person, Company, group or locality, nor put themselves in a position where they appear to do so.
- 5.2 Any offer of hospitality or offer of gifts to either Councillors or Officers should in the first instance be declined politely. If receipt of hospitality of a gift is unavoidable declaration of its receipt should be made as soon as possible.
- 5.3 Any gifts and/or hospitality should be logged and entered in the registers kept by the Council's Democratic Services Unit and reviews regularly.

## **6.0 Declarations of Interest**

- 6.1 The law and the Authority's Codes set out requirements and guidance for declaration of personal and prejudicial interests (see 1.0 above – General Role and Conduct of Councillors and Officers). Councillors must note that not only should impropriety be avoided but also any appearance of grounds for suspicion of improper conduct. The responsibility for this rests individually with each Councillor. (The Standards Board for England provides helpful advice).
- 6.2 Councillors who have substantial property interest or other interests which will prevent them voting on a regular basis should avoid serving on the Planning Committee.
- 6.3 Councillors should not use their position to further a private or personal interest rather than the general public interest or give grounds for such suspicion.
- 6.4 The law and the guidelines set out in the Authority's Code provide that an interest should be declared when a member of the public knowing all the facts would reasonably think that the Councillor might be influenced by it. If a prejudicial interest is declared not only must the interest be disclosed but the Councillor should not take part in any vote on the matter. At Planning Committee meetings where members of the public are able to express an opinion on an application, a Member with a prejudicial interest can provide information to the Committee. However, that Member should leave the meeting after such information has been provided, and may not take any further part in the process of the application. It is for the individual Councillor to declare an interest and as a general guideline, if in doubt it is safer to declare an interest.

## **7.0 Members' Applications**

- 7.1 Serving Councillors and Officers should never act as agents for people pursuing a planning matter with their Authority. Should they submit their own proposals to the Authority they serve they should take no part in its processing.

7.2 Such a proposal should be readily identified and a Senior Officer should be informed of any such proposal.

7.3 Such proposals should be reported to the Planning Committee as main items and not dealt with by Officers under delegated powers.

## **8.0 Officers' Applications**

8.1 As soon as an officer submits a planning application, they should inform the Council's Monitoring Officer in writing. A copy of the notification will be placed on the register of officer's interests.

8.2 Applications by officers are always considered by the Planning Committee, which will be informed of the fact that the application is made by or on behalf of an officer.

## **9.0 Committee Membership**

9.1 Care should be taken to ensure (so far as is practicable) that membership of the Planning Committee avoids a "concentration" of Members to a particular area of the island.

9.2 Where a Councillor is not a Member of the Planning Committee and makes representations on an application under Council Procedure Rule 24.1 he or she must disclose whether there has been contact with the applicant or the applicant's agent or any objectors, making it clear if only one side of the argument has been heard.

9.3 Councillors must confine their contribution to the debate on planning applications to purely planning matters and not aspects affecting the application which fall under the area of responsibility of any other Committee or Board or the Cabinet.

## **10.0 Substitutions**

10.1 Substitutions at a Planning Committee shall only be permitted from a designated pool of substitute Members, to be agreed at the Annual Meeting of Council each year (and updated as required at subsequent meetings of Council). [NOTE: Annual council will be asked to determine the size/composition of such a pool.]

10.2 It shall be the responsibility of the Member unable to attend the Planning Committee meeting to appoint a substitute Member from the pool and inform the Democratic Services Manager, in accordance with the Council's constitution.

## **11.0 Guidelines of Public Speaking**

11.1 Public speaking is permitted at Planning Committee with (for minor applications) one speaker for the application and one speaker raising points of concern,

11.2 In the case of major planning applications (as defined by the Town and Country Planning (General Development Procedure) Order 1995, a maximum number of three members of the public will be permitted to speak against the application,

provided they have different points to make to the Committee. It shall only be necessary for one speaker to represent the applicant.

11.3 The applicant will speak first and the objector(s) will speak afterwards.

## **12.0 Recording of Decisions Against Officer Recommendations**

12.1 The Committee will receive a report from the Planning Officer on each planning application it considers. The application report will include a recommendation from Officer.

12.2 The Officer will briefly introduce the report. After which there will be public speaking. The Chairman will then ask the Officer to comment. *{Amended by Standards Committee on 22 April 2008.}*

12.3 If it is evident from debate that the Committee is minded not to agree the Officer recommendation the Chairman will invite members to either; move an alternative recommendation or, an amendment. In moving that amendment the mover and/or seconder must provide supporting reasons.

12.4 The Chairman will ask the Head of Development Services, or the Senior Planning professional in his absence, to comment on the supporting reasons. Then either:-

- a vote will be taken to agree the alternative recommendation/amendment;
- or
- if satisfactory reasons have not been given for the alternative recommendation/amendment the Committee will return to the Officer recommendation which will be agreed or another motion debated.
- if, following further debate, the Committee still wishes to take a decision against officer advice, even though the Head of Development Services (or in his absence a Senior Planning Professional) cannot agree that the reasons for that decision are justified, then it shall be entitled to do so, provided that the decision directly against officer advice is so minuted. (Added by Standards Committee on 22 April 2009.)

12.5 In exceptional cases; where material considerations not covered in the Planning Officer report are raised in public speaking, or in questions from Committee Members, the application will be deferred so that further information is included.

## **13.0 Development Plan Departures**

13.1 All applications not in accordance with the development plan must be identified as soon as possible.

13.2 If approval is recommended, all material considerations must be clearly identified and how members justify overriding the development plan clearly demonstrated.

13.3 If the Officer's report recommends approval of a departure the justification for such a departure must be included in full in the report.

13.4 Any decision of the Planning Committee to approve such a departure must be referred to full Council. The application may then have to be referred to the Secretary of State for the Environment depending on the type and scale of development proposed.

13.5 Addenda and conditions may be attached to an application at the request of Members but as in 12.4 any such conditions must be fully minuted with the mover and seconder recorded.

#### **14.0 Changes to an Application**

14.1 No material change (i.e. one likely to affect any consultee) to any planning application shall be considered at Committee unless it has been the subject of a written appraisal by Officers, and has had adequate public consultation, and has been published in the agenda for the relevant meeting.

14.2 No minor change to any planning application shall be considered at Committee unless it has been published in the agenda for the relevant meeting.

#### **15.0 Briefing Meetings**

15.1 If a briefing meeting is held prior to any meeting of the Planning Committee it shall normally be attended only by the Chairman, Vice Chairman and Officers and shall be for the purpose of Officers informing the Chairman and Vice Chairman of any additional matters since publication of the agenda that do not appear in the reports.

15.2 The briefing meeting would enable notification of concerns or amendments to any application and enable the Chairman and Vice-Chairman to consider if such amendments constitute a material change, or whether a verbal report from the Officer or Officers is acceptable and within the Standing Orders governing the conduct and management of a meeting.

#### **16.0 Conduct of Planning Committee and Planning Committee Members**

16.1 All Members of the Planning Committee are to avoid personal abuse of Members or Officers or mention of party political matters during meetings of the Committee. The Chairman of the meeting shall warn any Member breaching this rule and in the case of repetition require him or her to leave the meeting. Such behaviour shall be considered to be a breach of the Council's Code of Conduct.

16.2 Any objection to an elected members' actions or behaviour shall be made in writing to the Chief Executive or to the Council's Monitoring Officer.

16.3 Any criticism of Officers by Members of the Planning Committee in relation to the handling of any planning application shall, in the first instance, be addressed informally to the Head of Development Services or the relevant Corporate Director. If this does not resolve the matter then it should be made in writing in accordance with procedures laid down in Standing Orders.

16.4 If any Officers feels or suspects that pressure is being exerted upon him/her by any elected Member in relation to a particular application he or she shall forthwith notify the matter in writing to the Chief Executive, relevant Director of Service or the Council's Monitoring Officer.

**17.0 Recorded Votes**

- 17.1 No record shall be made at the time of voting of the votes of individual Members on any item whether they be for or against the proposal or the abstaining from voting of a particular Member except that in accordance with 12.4 and 13.5.
- 17.2 A Member shall be entitled to have his or her vote recorded following the voting on any particular item in accordance with prescribed Standing Orders 11 (1) and (2).