

## **Part G – Appendices**

### **Section G1B:- Member Planning Protocol**

**In Part G:-**

**Section G1A** contains the Member Code of Conduct

**Section G1B** contains the Member Planning Protocol

**Section G2** contains the Officer Code of Conduct

**Section G3** contains the Officer/Member Relations Protocol

**Section G4** contains the Finance and Contract Procedure Rules which govern how the council manages its financial affairs. The Rules are split into the following 8 parts:-

**Part G4AA** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.

**Part G4A** deals with Financial Management

**Part G4B** deals with Financial Planning

**Part G4C** deals with Risk Management and Control of Resources

**Part G4D** deals with Financial Systems and Procedures

**Part G4E** contains the Contract Procedure Rules

**Part G4F** deals with External Arrangements

**Part G4G** contains the glossary of terms used in the Contract and Finance Procedure Rules

## **Part G – Appendices**

### **Section G1B:- Member Planning Protocol**

#### **Introduction**

- 1.1 The role of an elected Member on the Planning Committee is a dual one. It involves balancing representing the needs and interests of individuals and the community with the need to maintain an ethos of impartial decision making on what can often be highly controversial proposals. This section of the Code of Conduct sets out guidance for Members of the Council in dealing with planning applications.
- 1.2 It should be noted that there is a distinction between Committee Members and Visiting Members. It is the role of Committee Members (including substitute Members at individual meetings) to determine planning applications. They must be careful not to pre-determine proposals, or give the appearance of doing so, before the meeting at which the decision is to be taken. Visiting Members, on the other hand, are not called upon to determine applications. They are free to make up their minds on proposals in advance of the meeting and address the Committee either for or against applications.

#### **Conflicts of Interests**

- 1.3 Councillors who have substantial property interests or other interests, which would prevent them from voting on a regular basis, should avoid serving on the Planning Committee.
- 1.4 Councillors, who are themselves, or are acting as agents for people pursuing, a planning matter should play no part in the decision-making process for that proposal. The identification of such proposals is important.
- 1.5 The Councillor concerned should make any such interest clear to the Planning and Strategic Transport Service when submitting the planning application. Proposals will always be reported to the Planning Committee and not dealt with under delegated powers.

#### **Discussions with Applicants**

- 1.6 If Members are involved in any type of discussions with applicants, either before or after a planning application is submitted or any other type of meeting to discuss development proposals or other contact with applicants or their agents, it should always be made clear that the discussions will not bind the Council to make a particular decision and that any views expressed are personal and provisional.

- 1.7 Members of the Planning Committee should be especially careful in attending such meetings and avoid expressing support or opposition. Also, whilst Members may receive information from applicants and give information to applicants and members of the public, to safeguard their impartiality they should maintain a clear distinction between receiving/passing on information and more detailed involvement which could be mistaken for supporting or advocating a particular view or outcome.
- 1.8 Any developer presentations to Members, outside the normal Committee cycle, should be the subject of a formal request to the Senior Manager – Planning and Strategic Transport. Members will be limited to asking questions to clarify points of detail. There will be no discussion of the merits or demerits of the proposal.

### **The Representational Role**

- 1.9 It is accepted that a key element of the Councillors role and duties is representing the views of the electorate on matters of local importance. Members of the Committee are not in principle precluded from determining applications in their own wards but they must be careful to avoid predetermination of the matter or the appearance of having made up their mind before the Committee meeting. It is in this area that there can be the potential for conflict between this local representational role and the need for the Councillor to be part of the decision making process of the Borough Council.
- 1.10 It is inevitable that Councillors will be lobbied on planning proposals and asked to represent the view of the community. Lobbyists should be advised to make their representations directly to the Senior Manager – Planning and Strategic Transport to enable the content to be considered and, if appropriate, included in a Committee report.
- 1.11 It is considered that local Councillors who are also Parish Council Members should be allowed to give their views on particular proposals at Planning Committee meetings. In some cases a Member of the Planning Committee may also be a Member of a Parish Council which has commented on an application. The Parish Council's view on the application does not in principle prevent that Member taking part in the Planning Committee's decision making process but it must be clear that he or she has kept an open mind on the application and has not pre-determined it. When considering the application at Parish level the Councillor should point out that, in the event of the matter being referred to the Borough Council's Planning Committee, he or she would consider the matter afresh and with an open mind.
- 1.12 It is unwise for a Member to express a final personal view on the planning application before the Committee meeting at which the application is to be determined if he or she wishes to participate fully in the meeting at which the

decision is made (ie vote). Additional information is often received and further representations are often made up until the point of the committee meeting. A Member should not give the impression that when voting on an application he or she would not be influenced by any new information that may be put before them. To act in this way may give the appearance that a Member has predetermined the matter by making up his or her mind before he or she has had regard to all of the relevant information and matters arising during the debate. That a Member had (or had given the appearance of having) predetermined an application can form the basis of a legal challenge seeking to overturn the Committee's decision.

- 1.13 A decision on a committee application cannot be made before the Planning Committee meeting. Therefore no political group meetings or other meetings will take place prior to the Committee meeting with the specific purpose of instructing Councillors how to vote or for Councillors agreeing how to vote.
- 1.14 Councillors should also not put undue pressure on officers to put forward a particular recommendation.
- 1.15 Visiting Members will be restricted to a period of five minutes speaking per item, with any extension to the time limit being at the sole discretion of the Chairman.

### **Chairman's Pre-Meeting Briefing**

- 1.16 Briefing meetings with the Chairman, and all other party Spokespersons, may be held as they can be helpful to explain the background to the proposals on the Planning Committee agenda and provide an opportunity for Members to ask officers to provide further clarification of any issues at the committee meeting.

### **Site Visits**

- 1.17 Site visits, organised and guided by planning officers, are an essential part of high quality decision making. Members will rarely be able to get a full and clear understanding of all of the relevant issues without having first undertaken an organised site visit. For that reason, Members who are unable to commit to attending the regular organised site visits should not sit on planning committee.
- 1.18 Committee Members must not participate in the debate or vote on an item at Committee unless they have previously attended the organised site visit. Member substitution arrangements must be made in good time so that proposed substitute Members can attend the organised site visit. The Chairman of the Committee shall, but only in exceptional circumstances, be entitled to allow Members to participate at Committee notwithstanding that the Member concerned has not attended the organised site visit.

- 1.19 Site visits are carefully organised to ensure that the purpose, format and conduct are clearly established and adhered to. Planning officers will attend all site visits to draw Members' attention to relevant matters and to ensure that Members' questions can be answered.
- 1.20 Site visits will normally take place the day before the Committee meeting when the application is due to be considered. They will be organised and conducted by officers and not by individual Members on their own. Members and officers will travel together by coach from the Council offices.
- 1.21 Site visits do constitute a part of the formal Committee process and standing orders and Members' interests provisions apply.
- 1.22 The purpose of site visits is for Members as a group to have facts pointed out by officers and questions responded to, not for there to be a debate about issues, nor for any decision to be made on the application. Debate must only take place at the Committee meeting.
- 1.23 Unless required to permit access to the site, the site owner will not normally be invited to attend. Whilst it may be necessary for an applicant or his agent to be present on site (eg for safety reasons), discussions with the applicant, their agent or any third party should be avoided. If it is necessary to seek information from the applicant on site this will be done by an officer.
- 1.24 A note of those Members attending will be kept.

### **Declarations of Interest**

- 1.25 Members are reminded of the need to have very close and careful regard to the rules on interests and pre-determination when discharging planning committee duties. Members should familiarise themselves with the Member Code of Conduct in Section G1A of this constitution and the Lawyers in Local Government /Local Government Association Model Planning Code or Protocol from time to time in force. Any queries or concerns should be raised with the Monitoring Officer at the earliest opportunity

### **Decisions Contrary to Officer Recommendations**

- 1.26 If the Planning Committee makes a decision contrary to the officer recommendation (whether for approval or refusal), the Committee should state its reasons or give an outline of conditions. These will be minuted and a copy placed on the application file. The officer should be given the chance to explain the background to the officer's recommendation and the implications of the contrary decision.
- 1.27 If Councillors wish to add or amend conditions, the Committee should delegate the drafting of such conditions to the Senior Manager – Planning and

Strategic Transport, but must explain why they consider the change is required.

- 1.28 In sensitive cases, the drafting of conditions and/or planning obligations may be subject to further consideration at a subsequent meeting of the Committee.

### **Planning Obligations**

- 1.29 Members of a Planning Committee should, when considering the merits of an individual planning application, consider any relevant planning obligation which has been offered by the applicant or agent.

- 1.30 Members should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits which may be offered to the Authority or benefits which the Authority itself wishes to obtain.

### **Review of Decisions**

- 1.31 A periodic review should take place, which may include a Members' tour, and should include examples from a broad range of categories such as:-
- (a) major and minor development proposals
  - (b) permitted departures to the development plan
  - (c) significant allowed appeals;
  - (d) major listed building works;
  - (e) associated infrastructure