

## **Annex 4.8 - Model Code of Practice in respect of Planning Matters: Probity in Planning**

### **1. Introduction**

- 1.1. Planning matters have a significant impact on our lives and the area in which we live. It is important that the system operates and is seen to operate, in an honest, open and transparent manner.
- 1.2. The purpose of the planning system is to consider development proposals in the light of wider public interests, with the Government requiring a positive approach to be taken towards allowing substantial development. To succeed, the planning system relies on councillors and officers acting in a way that is fair and is clearly seen to be fair. This includes acting in accordance with planning law in all instances and having due regard to national and local policies, in addition to all other “material planning considerations.” It is worth noting that a large proportion of judicial challenges to local authorities, as well as complaints to the Ombudsman, are as a result of planning matters.
- 1.3. This model code of good practice for planning (“Code”) has been adapted from national guidelines on probity, to take account of the local situation. Two particular areas of the Localism Act 2011 are relevant to this code. Firstly, regarding pre-determination the Act makes clear that it is proper for councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result, provided they maintain an open mind if they are involved in decision making about the matter. Secondly, and related to pre-determination, the Act introduced a requirement for developers to consult local communities before submitting planning applications for certain developments. This gives councillors and local residents a chance to comment when there is still genuine scope to make changes to proposals, at both pre-application and post submission stages.

### **2. Status of the Code**

- 2.1. This Code is contained in the council’s Constitution and is complementary to the Members’ Code of Conduct ([Constitution](#), Appendix 1). Members of the Planning Committee (“Members”) should apply both the general Councillors’ Code of Conduct and this Code in dealing with planning issues. This is to help Members: maintain the council’s high standards of conduct, avoid placing the council at risk of legal challenge or a finding of maladministration by the Local Government and Social Care Ombudsman, and avoid putting an individual Planning Committee member at risk of a complaint. A breach of this Code, whilst not usually amounting to a breach of criminal law, may

adversely affect the reputation of the Council. For the avoidance of doubt, references to Members in this Code includes substitutes.

2.2. The purpose of this Code of practice is to:

- i. Set the standards of conduct the council requires Members and officers of the council to follow when dealing with and determining planning applications including policy, development and enforcement.
- ii. Guide the way in which Members and officers of the council deal with all planning decisions, supporting their respective roles, and protecting their reputation for probity
- iii. Set the standard of conduct which other parties to the process can expect from Members and officers when dealing with planning matters

2.3. This Code applies to all Members and officers when making decisions on planning matters. It has been drawn up to:

- i. Support Members effective engagement in all aspects of the planning process and, in this context, to fulfil their democratic role.
- ii. Ensure transparency and fairness in the way in which decisions are taken and that there are no grounds for suggesting that a decision has in any way been biased, partial or not made on the correct considerations.

2.4. A key objective of this Code is to help Members make formal planning decisions that should be safe from legal challenge.

2.5. This Code sets out clear lines of engagement and expectations for each of the parties involved including members of the public and developers.

### **3. General Role and Conduct of Members of the Planning Committee and Officers**

3.1. Members and officers have different but complementary roles in the planning process. Members of the Planning Committee have different roles to those of other councillors.

3.2. Mutual trust, respect and understanding between councillors and officers are key to achieving effective local government. Annex 2.4 of the [Council Operating Framework](#) provides additional information on councillor / officer relations. Officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Planning Committee.

- 3.3. Officers, in their role of advising and assisting Members in their determination of planning matters in the public interest, do not represent either the landowner / applicant or the objector. They will:
- i. Provide impartial professional advice.
  - ii. Seek to ensure consistency of interpretation of national, regional and the council's planning policies.
  - iii. Complete written reports with clear written recommendations and all necessary information for the decision to be made.
- 3.4. The code of conduct for officers is set out in their employment policies. In addition, many professional staff within the planning service will be members of the Royal Town Planning Institute (RTPI) and are required to comply with the RTPI Code for professional conduct. Planning officers who are not RTPI members are also expected to conduct themselves in the same manner.
- 3.5. Members of the Planning Committee and all other councillors must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a councillor from asking questions of, or submitting preliminary views, to an officer. These views if submitted in written form will be placed on the planning file and considered together with other material planning considerations. If councillors have factual questions about a forthcoming application, they should ask those questions in advance of the meeting so that the situation can be clarified.
- 3.6. Members should make all decisions in an open and transparent manner in accordance with material planning considerations and this should not be compromised in any way. Messages should not be passed to Members during debate and Members should not use their mobile phones during a meeting, as this could give an impression of undue influence from a third party. In an emergency at a meeting any communication should go through the Democratic Services officer. During a Planning Committee meeting a Member should not leave the chamber to discuss the item on the agenda with anyone else whether inside the Chamber or outside. For the avoidance of doubt, this includes the applicant or their representatives, an objector or someone in the public gallery.
- 3.7. In order to ensure that decisions are taken on planning grounds and are legally sound, it is **imperative** that all Members of the Planning Committee read the reports prepared by officers and familiarise themselves with all relevant National Planning Guidance (including the National Planning Policy Framework), Development Plan policies, and other material planning considerations, well in advance of the relevant Planning Committee meeting.

It is important that Members be **seen** to be meeting this provision of the Code.

- 3.8. Members of the Planning Committee must always approach their decision making with an **open mind**, have regard to **all** material planning considerations, and be prepared to change their views if persuaded that they should. Members should remember that planning law requires determinations to be based on **planning considerations** and not on any political or other reasons.
- 3.9. The Planning Committee should, when considering an application, take into account **all views on material planning considerations** that are expressed in such a way that they are **openly heard** and **fairly** considered in a **balanced** way before the Committee reach a decision. This does not mean that the same points need to be repeated if they are raised by more than one party.
- 3.10. Members **cannot vote** or take part in the meeting's discussion on an item unless they have been present to hear the entire debate, including the officer's introduction to the item.
- 3.11. Members should ensure that if they are proposing, seconding or supporting a decision contrary to an officer's recommendations or the development plan, they, not officers, clearly **identify** and understand the planning reasons leading to this decision. Their reason/s must be given **prior** to the vote and will be recorded. Members must be aware that the resulting decision may have to be justified by evidence about their reasoning at a planning appeal in the event of challenge, and members may be called upon to provide this evidence themselves.

#### **4. Interests: Registration and Disclosure**

- 4.1. The law and the Members' Code of Conduct ([Constitution](#), Appendix 1) set out rules and guidance on declaration of interests. Councillors **must** follow these rules and guidance and review their own situation regularly. These are set out in the Code of Conduct and so are not repeated here.
- 4.2. A Member of the Planning Committee with a disclosable pecuniary interest relating to an item of business will not be able to take part in the debate or vote on that item. A councillor with a disclosable pecuniary interest may be permitted to address the Committee in a private capacity if registered to speak at the meeting. The councillor must then leave the Chamber and must not participate further in the debate or participate in any vote or further vote on that matter.
- 4.3. In relation to planning decisions, any interest that does not amount to a disclosable pecuniary interest, but which may have a significant impact upon

a Member's judgement, should be declared by the Member at the meeting. In each case, this would be a matter for the Member's **own** judgement having full regard to the facts. Advice on this can be sought in advance from the Monitoring Officer.

- 4.4. Even if a Member considers a non-pecuniary interest would not have a significant impact on their judgement, there are likely to be situations where the public expectation would be for the Member not to participate; and Members should consider whether the perception of such an interest would mean it is better for them not to participate. Advice may be sought in advance from the Monitoring Officer.
- 4.5. There may be circumstances in which a member of the public would not regard it necessary for a Member to declare an interest or involvement in a matter but for reasons of good practice and transparency, a Member chooses to do so, simply to be as open as possible. In these circumstances, the declaration would have no impact on the Member's participation.
- 4.6. Members who are unsure whether an interest should be declared should seek advice and guidance from the Monitoring Officer or Deputy Monitoring Officer.

## 5. **Predetermination, Predisposition and Bias**

- 5.1. Members of the Planning Committee must ensure that they do not restrict their ability to take part in the decision-making process by making up their minds or clearly giving any appearance that an application or other matter referred to the Planning Committee has already been decided by them before the Planning Committee has the opportunity to consider the application.
- 5.2. The courts have sought to distinguish between situations that involve bias, **predetermination** (which is a form of bias), on the one hand and **predisposition** on the other.
- 5.3. **Predetermination** is indicative of a "**closed mind**" approach and could leave the committee's decision open to challenge by Judicial Review. Such "pre-determination" has been held to amount to the "surrender by the decision-maker of its judgement by having a closed mind and failing to apply it to the task" (*R (on application Persimmon Homes) v Vale of Glamorgan Council [2010] EWHC 535*).
- 5.4. Members of the Planning Committee can and indeed may well have a **predisposition** to a view about a matter but **must make it clear** that despite this they have an **open mind**, one which is capable of being swayed and that they are willing to listen to **all material considerations** presented before them at the decision-making meeting before deciding on how to vote.

- 5.5. Members and officers should also avoid the **appearance of bias**. An example of this type of interest might be in relation to a planning application on a site very near to the Member's home (where it may well be advisable for the Member not to take part); or an application by a family member or close friend or business acquaintance. It may also arise where a Member is closely involved with an organisation which may have an interest in the application.
- 5.6. In relation to planning decisions, any interest which may have a significant impact upon a Member's judgement, should be declared by the Member at the meeting. In each case, whilst this would be a matter for the Member's **own** judgement having full regard to the facts, the decision they make should be a reasonable one, as the courts will consider apparent, as well as actual bias.
- 5.7. Whilst it might remain possible for a Member to apply an open mind to the matter to be determined, in such circumstances Members must avoid giving the impression or appearance that particular personal interests or attributes would lead them to consider aspects of an application more carefully, or with more regard than other aspects, unaffected by their own character and experience. It should be understood that the perception of justice "is rooted in confidence, and that confidence is destroyed when right minded people go away thinking that the judge was biased".<sup>1</sup>
- 5.8. Members who are unsure on their position on predetermination should seek advice from the Monitoring Officer or Deputy Monitoring Officer before the Planning Meeting.
- 5.9. A Member who has **predetermined** their position or who has a biased or apparently biased situation should **withdraw** from being part of the decision-making body. If the Member takes part in the decision-making process it will put the council at risk of a finding of maladministration and of legal proceedings.
- 5.10. For Planning Committee Members the aim is that they not only act, but are seen to act, impartially and honestly by approaching each planning decision fairly between the parties and with an open mind. Should a Member wish to take a particular stance in relation to a development or feel that it would be difficult to demonstrate that they have followed a consistently fair approach between all parties in a case, then it is possible for them to decide not to be part of the decision-making process on the particular issue or application but to act as a ward member in that instance. However, in such cases they need to clearly identify that they are leaving the membership of the committee for

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<sup>1</sup> Metropolitan Properties Co (FGC) Ltd v Lannon [1969] 1 QB 577.

the item and do not seek to participate in the debate as they would normally do as a committee member.

- 5.11. Members can attend meetings to discuss proposed development schemes and questions have been asked about the propriety of such attendance. This is different from lobbying (see below). Members and the Council could be challenged where they have expressed their opinion on proposals during or after such meetings, or in advance of Committee consideration. At the start of any such meetings and throughout, the Member of the Planning Committee should make it clear that the discussion will not bind the Council or councillor and that any view expressed is personal and provisional.
- 5.12. The administrative system by which planning applications are determined in accordance with the law, and as necessary in a democratic society, would be brought into disrepute if it became evident that decisions favourable to an applicant or an objector could be obtained by lobbying members outside the procedural framework (see Section 6 for lobbying). For these reasons, if an applicant or an objector seeks a meeting with members it is strongly advisable for the member to insist that they will only attend if an officer or others are present, this also includes any pre-application discussion. For the avoidance of doubt this includes whether the meeting is taking place in person or virtual.
- 5.13. However, it can be practically impossible for members to always avoid informal approaches in their ward and members may be said to have a duty, particularly as Ward Councillors, to inform themselves of proposals that affect their wards and to be alive to public opinion. Councillors can play a constructive role in listening to and objectively gathering and reporting such views to the Members who will determine the application, even though Members will be aware that the views expressed by the public may not be based on material planning considerations.
- 5.14. With these points in mind, it is suggested that the following guidelines may be helpful to members when considering whether to accept an invitation to a meeting:
  - i. Where members accept invitations to meetings from prospective developers or objectors when an application for planning permission has been received, even if the invitation is made to them ostensibly as a Ward Councillor, they should ensure that an officer or others are present and avoid expressing any fixed view on the matter.
  - ii. Councillors must not make any commitment to determine a matter in a particular way, for any reason.
  - iii. Members and Ward Councillors (subject to the two paragraphs above) should not accept invitations to meetings from prospective

developers or objectors unless it is clear to them that the meeting is either a public meeting or one to which residents or other persons with an interest in the potential development have also been invited. If a Ward Councillor attends such a meeting in the belief that others have been invited but finds that no other persons are present, apart from the developer, they should decline to take part in any discussion of the scheme. There is no reason to distinguish between meetings in neutral premises and meetings in the prospective developer's or objector's own premises.

- iv. There is nothing to stop members inspecting a site from the public highway if they choose to do so in order to better acquaint themselves with the details, but Members should be aware of the risk of contact with the applicant or objector and inferences, which might be made. If access to a site is required, a formal site visit should be sought through the planning Case Officer.
- v. There is nothing to stop Members responding to invitations to a meeting if properly convened through the Chief Executive or by officers in the planning service to which all relevant Members (but not members of the public) have been invited, provided that if the merits and problems of the application are discussed Members make it clear that they have no fixed view of the matter at that stage.

## **6. Lobbying**

- 6.1. Lobbying is a normal part of the planning process and may not be restricted to Members of the Planning Committee. If a councillor, who is not on the Planning Committee, wishes to support a particular viewpoint then that councillor has a right to appear at Planning Committee and seek permission to address the meeting.
- 6.2. Members of the Planning Committee (including substitutes) should be aware that if they are a member of a lobbying group, they may need to recuse themselves from participation in decision making on an application where that application has been discussed by the lobby group in their presence. They should also consider recusing themselves from meetings of the lobby group whilst a planning application is to be discussed.
- 6.3. Since lobbying can lead to the impartiality and integrity of a Member being called into question, it is clear that care should be taken, and all parties involved should exercise common sense. It is therefore important that Members protect their impartiality and integrity in planning matters. Members will not breach this Code by listening to or receiving viewpoints from residents or other interested parties as long as they make it clear that they are keeping an open mind.



## **7. The Decision-Making Process and Decisions Contrary to Officer Recommendations and / or the Local Plan**

- 7.1. All Committee decisions are made by a simple majority with the Chair's casting vote in case of a tied vote.
- 7.2. In discussing, and determining a planning application or other planning matter, Members should confine their discussion to the policies of the Development Plan, and to those material considerations that should influence their decision.
- 7.3. However, it is acknowledged that deputations by applicants or members of the public may refer to matters that should not properly be part of the reasoning of the Members' decision. On such occasions, it may be difficult for Members of the Planning Committee to confine their comments to the appropriate planning issues without appearing to disregard expressed concerns.
- 7.4. Where it appears that the clarity of the decision-making process may be undermined, the Committee Chair and officers may give guidance on any elements of the discussions that refer to irrelevant or immaterial considerations, and any elements that should be disregarded by the Committee in formulating its decision. Officers will clarify the weight to be given to relevant consideration in their reports, or advise on information that comes forward during deputations or in the course of debate. It is very important that Members are aware that if decisions are not made with due regard to the proper consideration they can be challenged.
- 7.5. Where the Planning Committee's decisions do not accord with the officer's recommendation, the Committee's reasons to grant an application, or to refuse it, or any additional conditions to be applied, must be clearly stated by the Member(s) making the proposal.
- 7.6. Where members are minded to make a decision that is contrary to officers' recommendations it is important to ensure as far as possible that any decision made will be capable of surviving a legal challenge. Members should be clear on their reasons for refusal, however they can ask officers present in the meeting to help refine their reasons. When the Committee has made such a decision, the Chair will allow brief discussion to ensure that officers have understood the intentions and reasons of the Committee.
- 7.7. All conditions, including ones that the Committee may wish to impose on a planning permission, must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

7.8. If the report of the Head of Place Development recommends approval of a departure from the Local Plan, the full justification for that recommended departure will be included in the report.

## **8. Councillor “Planning Application Call-in” Procedure**

8.1. Most planning applications are determined by Planning Officers in line with the council’s Scheme of Delegation ([Constitution](#), Appendix 2). However even when delegated authority authorises officers to determine the application, a Planning Committee Member, or any councillor, may wish for a planning application to be considered by the Planning Committee. In these circumstances, the following rules must be complied with. Failure to do so entitles officers to refuse to put the application to committee and determine it under delegated authority.

8.2. A “call-in” request must be received within **28 calendar** days following the date of public notification by the Development Management team. This gives the councillors enough time to read the comments being received from other parties (who have 21 days to comment).

8.3. The request must be in writing (email is acceptable) to the Case Officer, copied to the Head of Place Development, Development Management Manager, and the Chair of Planning Committee, asking that the item be “called-in” to the Planning Committee,

8.4. The request must be on **relevant planning grounds** or **merit** intervention to have the application placed before the Planning Committee.

8.5. It is not the case that just because a member of the public requests call-in of an application on their behalf, that this should be actioned. It is the responsibility of councillors to explain to their electorate that a call-in cannot be justified if there are no planning grounds for doing so.

8.6. **All** “call-ins” made by councillors stating **material planning grounds** and within **28 calendar days** will be valid.

8.7. Where the “call in” is not made on material planning or merit intervention grounds, the “call-in” will be rejected. The decision as to whether the grounds are justifiable will be at the discretion of the Head of Place Development, in consultation with the Chair of Planning Committee and the councillor(s) concerned.

8.8. Councillors who have asked for a call-in should ensure that they attend the committee meeting to which the item is being discussed to explain the planning reasons why the application merits consideration by the Planning Committee. However, if they do not attend this will not prevent the item from being dealt with.

## **9. Planning Applications made by Councillors and Officers**

- 9.1. When a planning application is submitted by a councillor or member of the Corporate Management Team, or by a close relative or friend of them they will:
- i. Advise the Monitoring Officer of the application.
  - ii. Take no part in the processing and determination of the application.
- 9.2. All such applications will be reported to the Planning Committee. The Committee will determine such applications. An officer will not determine such applications under delegated authority.
- 9.3. The Corporate Management Team means the Chief Executive, Directors, and Heads of Service.

## **10. Late Representations**

- 10.1. Late representations by the applicant or objectors regarding applications being presented to Committee will be considered up until midday three working days before the Planning Committee meeting. Such representations will be summarised by the Case Officer and sent to the Planning Committee Members at least one working day before the meeting.
- 10.2. Comments or any other information received after the deadline will only be taken into consideration in exceptional circumstances at the discretion of the Head of Place Development, in consultation with the Chair of Planning Committee. This process ensures the Planning Committee Members have sufficient time to read any additional papers.
- 10.3. No material will be handed out at Committee by anyone other than the officers presenting the item before committee.

## **11. Public Speaking at Planning Committee**

- 11.1. Any Ward members, members of the public or organisations are entitled to speak at the Planning Committee, subject to the conditions below.
- 11.2. An individual or representative of a local group / organisation who wishes to speak at a Planning Committee must register their wish to do so by noon on the day of the meeting. Details on how registration can be made are provided on the introduction to a meeting's agenda papers.
- 11.3. Normally, only two speakers in support (including the applicant/agent) and two against may speak on a single application. Registration will normally be on a first come first served basis, but an individual may choose to waive this right in favour of an individual who attempted to register at a later time. Alternatively, several members of the public may appoint one person to

speak on their behalf provided they can reach agreement to this amongst themselves.

- 11.4. A speaker shall have a maximum of three minutes to address the Committee and must confine their remarks to the application upon which they requested to speak. The address shall be in the form of a statement, not attempts to question the applicant or other persons, but may address issues raised by other speakers.
- 11.5. Speakers should only raise issues concerning planning matters such as:
  - i. Appearance and character of the application
  - ii. Traffic issues, highway safety and parking
  - iii. Layout and density of buildings
  - iv. Loss of light overshadowing and loss of privacy
  - v. Noise, disturbance and other loss of privacy
  - vi. Other relevant planning considerations
- 11.6. There will be no opportunity for displaying any materials or to ask any questions of anyone at the meeting, unless with the express approval of the Chair of the Committee and submitted in advance.
- 11.7. If the Chair considers that any remarks made are defamatory, no further representation will be allowed.
- 11.8. Once a speaker has finished they will take no further part in the meeting.
- 11.9. Individuals or organisations will be invited to address the Committee following the presentation of the item by the officer. The order of speakers will be:
  - i. Ward councillors
  - ii. Any councillor who has called in an application
  - iii. Objectors
  - iv. Supporters (including the applicant or their agent)

## **12. Monitoring and Review of Decisions**

- 12.1. Planning Committee Members should play an active part in regularly reviewing the outcome of planning decisions so that lessons can be learned, and the future consideration and determination of planning applications can be improved as part of a broader commitment to continuous improvement.

- 12.2. Arrangements will be made for Members to visit a sample of implemented planning permissions, so that a regular review of the quality of planning decisions can be undertaken.
- 12.3. The outcome of the review will be considered by the Planning Committee and may lead to the possible amendments to existing policies or practices

### **13. Training**

- 13.1. No Member (or Member substituting on a Planning Committee) may sit on a Planning Committee meeting without first having received appropriate mandatory training as set out below.
- 13.2. The validity of this training will expire if the Member has not attended a meeting of the Planning Committee within 12 months of receiving it, or has had a gap in membership from the Committee of more than 6 months. Where the validity of the training has expired, the Member may not sit on the Planning Committee until they have received further training.
- 13.3. Given the complex legislative framework for determining planning applications and the constant reforms and changes within the planning system, the Head of Place Development will provide a Planning Committee Training Programme to include:
  - i. An annual training session that will provide an overview of the key role of planning and the role councillors play in the planning process. This training will usually be held once the membership of the Planning Committee has been confirmed at Annual Council and should be attended by both new and continuing Members of the Committee. However, all councillors will be encouraged to attend, to help them understand planning issues and enable them to act as substitutes on the Planning Committee.
  - ii. A six month mandatory refresher session.
  - iii. Further training sessions as necessary on new council and Government policy and legislation, or other planning issues that are requested by councillors or officers. Again, all members of the council will be encouraged to attend such sessions.
- 13.4. Democratic Services will maintain a register of councillors who have received training.

### **14. Complaints**

- 14.1. A complaint that a Member or officer has breached this Code should be made in writing to the Monitoring Officer for investigation and determination.

- 14.2. There is a specific right of appeal for applicants who are not satisfied with a planning decision. In all other cases, the Head of Place Development will investigate a complaint made in writing regarding the determination of a planning application, or a related planning matter, and will deal with it in accordance with the council's complaints procedure.
- 14.3. In the event that the complainant was not satisfied with the result of the investigation under the council's complaints procedure, must be made directly to the Local Government and Social Care Ombudsman.

## **15. Site Visits**

- 15.1. The purpose of an organised council site visit is for members to gain knowledge of the development proposal, the application site and its relationship to adjacent sites. Members and officers must remember when conducting a site visit that anything said or done by them should be restricted to relevant planning considerations and that they should remain open minded.
- 15.2. The decision to hold a site visit prior to the Committee meeting is to be made by the Head of Place Development in consultation with Chair of Planning Committee. The purposes of a formal site visit are:
- i. To view the setting of the application.
  - ii. To consider any other matters seen on site which may be material to consideration of the application.
  - iii. To find facts, especially when the application site is not visible from public land.
- 15.3. Site visits should be requested by members prior to the application being reported to Committee. Members should only request a site visit when the application has reached the determination stage and if they consider it essential to clarify an issue that cannot be understood without such a visit, and which could not have been considered earlier. The Committee may decide to visit a site because particular factors to be seen on site are significant in terms of the weight to be afforded to them in determining the application, and because following discussion in Committee, Members have reduced confidence that such factors can be fairly considered in the absence of a site visit to assess such details. In proposing a site visit, the Member who wishes the Committee to have additional opportunity to do so, should specify the factors to be noted if the site visit is agreed.
- 15.4. During a site visit members and officers should avoid any appearance of impropriety and must not accept gifts or hospitality. Comments should be restricted to planning matters, and questions should be put through the planning officers attending the site visit. Officers and members must refrain

from making comments that might be construed as supporting or opposing a particular view, and from making any personal comments.

- 15.5. The purpose of a formal site visit is not to receive or allow representations to be made outside the formal Committee meeting. Site visits should not be used as a lobbying opportunity by objectors or supporters. If, on a site visit, members and officers are approached by persons wishing to speak about the application, officers will explain that any representations may be made to the Committee at the meeting and explain the processes for making representations.
- 15.6. Members with a pecuniary interest in a planning application should not make representations seeking a site visit in respect of an application. Members with a pecuniary interest in a particular application or agenda item must not attend any related site visit.
- 15.7. Members with a personal interest that a fair-minded observer and informed observer may conclude amounts to a real danger of bias on an agenda item or particular application must also not attend any related site visit.
- 15.8. Other councillors can attend a site visit at the discretion of the Chair of Planning Committee. However it is at the discretion of the land owner as to whether they are allowed on private land.
- 15.9. If a member intends to visit a site, outside of the formal site visit arrangements they should avoid entering private land and avoid discussions with any land owner or member of the public.

## **16. Development Proposed by the Council**

- 16.1. Parliament has decided that local planning authorities are, in the majority of circumstances, the appropriate body for determining planning applications affecting the area, including where the council itself submits a planning application. There are separate statutory requirements for the council in determining applications to develop its own land, or to develop it jointly with another body.
- 16.2. Members and officers involved in reaching a determination of the application should treat proposals for the council's own development, or development involving the council and another party, in the same way as those by private developers. This means that not all applications on council owned land need to be considered by Committee; for example, where an application relates to council owned land that is subject to a long leasehold.
- 16.3. Planning decisions must always be made strictly on planning merits, and without regard to any financial or other gain that may accrue to the council if the development is permitted. It is important that the council be seen to be

treating such applications on an equal footing with all other applications, as well as actually doing so.

**17. Review of Protocol**

- 17.1. This Code will be reviewed as necessary, for instance with changes to planning legislation, national codes of conduct, and so forth.