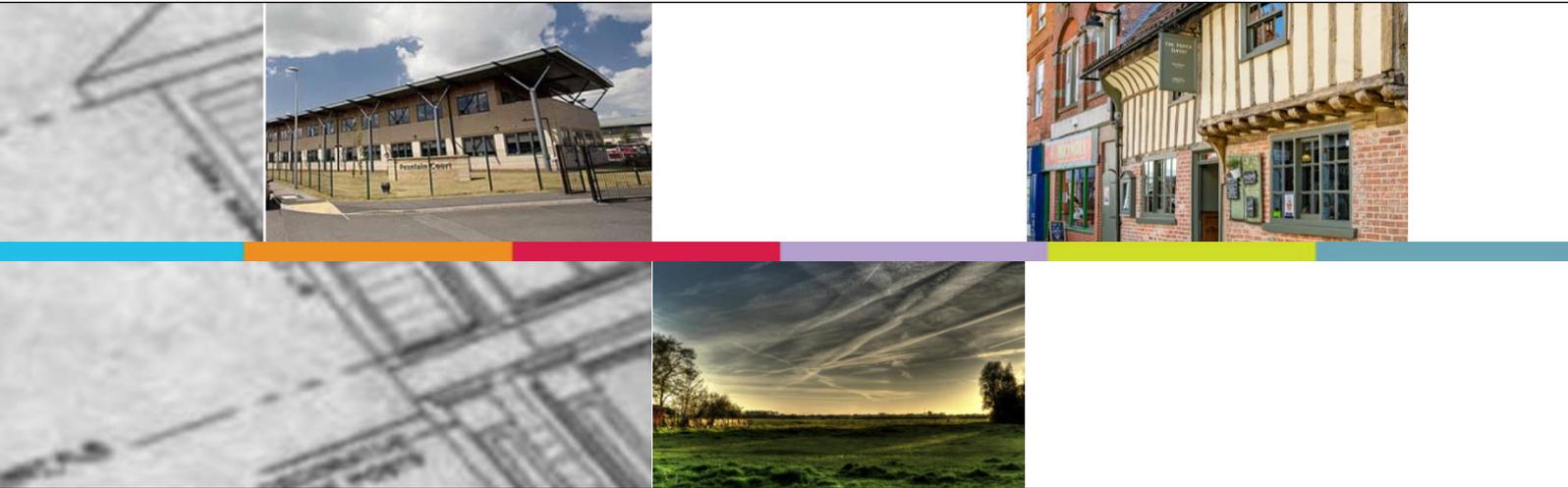


# Protocol for Members on Dealing with Planning Matters

Effective from 9 June 2022



## Version Control

Version	Date	Change
v1	9 June 2022	Protocol Adopted
v2	8 December 2022	Section 15, paragraph 15.1 amended to include the bold text Any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter. <b>For clarity, the <i>'whole of the presentation and debate'</i> comprises only the presentation and debate on the day the application is determined. It does not include any previous presentation and/or debate of the item for either referrals or resolutions to approve subject to '...' which might include completion of a s106 planning obligation, consultations or notifications to expire or other matters.</b>
	8 December 2022	Paragraph numbers updated

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## **PROTOCOL FOR MEMBERS ON DEALING WITH PLANNING MATTERS**

### **1.0 Introduction**

- 1.1 One of the key purposes of the planning system is to regulate the development and use of land in the public interest.
- 1.2 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. Planning necessarily affects land and property interests and as a consequence decision can often be highly contentious.
- 1.3 The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- 1.4 The aim of this protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.5 This protocol applies at all times when Members are involved in the planning process. This includes meetings of the Planning Committee, meetings of the Council when exercising the functions of the Planning Authority and less formal occasions, such as meetings with officers or the public and consultative meetings. It applies to planning enforcement matters, to site specific policy issues and to the making of compulsory purchase orders on planning grounds.

IF YOU HAVE ANY QUERIES OR CONCERNS ABOUT THE APPLICATION OF THIS PROTOCOL TO YOUR OWN CIRCUMSTANCES YOU SHOULD SEEK ADVICE EARLY FROM THE MONITORING OFFICER OR DEPUTY MONITORING OFFICER AND PREFERABLY WELL BEFORE ANY MEETING TAKES PLACE.

### **2.0 Relationship to the Members Code of Conduct**

- 2.1 The Council has adopted a local code of conduct which reflects the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.
- 2.2 This protocol is intended to supplement the Members Code of Conduct where members are involved in the planning process.
- 2.3 The rules set out in the Members Code of Conduct must be applied first and must always be complied with.
- 2.4 Where a member does not abide by the Members Code of Conduct and/or this protocol when involved in the planning process it may put the Council at risk of challenge on the legality of any decision made or at risk of a finding of maladministration.
- 2.5 The failure is also likely to be a breach of the Members Code of Conduct and may be the subject of a complaint to the Standards Committee.

MEMBERS SHOULD APPLY COMMON SENSE IN THE INTERPRETATION OF THIS PROTOCOL.

### **3.0 The General Role and Conduct of Councillors and Officers**

- 3.1 Councillors and officers have different but complementary roles. Both serve the public, but councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers advise councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's position. The Council has adopted a protocol giving guidance on relationships between officers and members.
- 3.2 Both councillors and officers are guided by codes of conduct. The Members Code of Conduct and its relationship to this protocol are set out in section 2 above.
- 3.3 Planning Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct breaches of which may be subject to disciplinary action by the Institute. In addition, the Council has adopted a Code of Conduct for employees.
- 3.4 In addition to these codes, the Council's Procedure Rules set down rules which govern the conduct of Council business.
- 3.5 Councillors and officers should view with extreme caution any offer of gifts or hospitality. The Council has adopted separate protocols for officers and for members giving guidance on gifts and hospitality.
- 3.6 Serving councillors who act as agents for people pursuing planning matters within their authority should not be members of the Planning Committee.
- 3.7 Councillors and particularly those serving on the Planning Committee are required to receive training on planning when first appointed to the Planning Committee and a minimum of once annually thereafter.

### **4.0 Registration and Disclosure of Interests**

- 4.1 The Member Code of Conduct sets out detailed requirements for the registration and disclosure of disclosable pecuniary interests. Members should not participate in any decision and should leave the meeting where they have a disclosable pecuniary interest unless they have first obtained a dispensation.

In addition, unless they have obtained a dispensation they should: -

- **NOT** participate or give the appearance of trying to participate in the making of any decision on the matter by the Council as Local Planning Authority
  - **NOT** get involved in the processing of the application
  - **NOT** use their position to discuss the proposal with officers or members when other members of the public would not have the opportunity to do so or in any other way seek or accept any preferential treatment or give the appearance of so doing.
- 4.2 In addition, the Code requires members to consider whether they have a non disclosable interest or personal interest in any item. Such an interest will arise where the matter may reasonably be regarded as affecting the wellbeing or financial standing of the member concerned, a member of their family or a person with whom they have a close association to a greater extent than the majority of people in their ward. Such an interest will also arise where it would be a disclosable pecuniary interest but relates to a member of the councillor's family or to a close associate rather than to the member themselves or to their spouse or partner.

4.3 In the event that a member considers that they have a non disclosable pecuniary interest or personal interest in any matter they should disclose the existence and nature of the interest at or before the consideration of that item of business or as soon as the interest becomes apparent.

4.4 The member then needs to consider very carefully whether it would be appropriate to participate in discussion and voting on the matter. They should think about how a reasonable member of the public, with full knowledge of all the relevant facts would view the matter when considering whether their participation would be appropriate.

## **5.0 Predisposition, Predetermination or Bias**

5.1 To protect the rights of planning applicants and to preserve the integrity of committee decisions, it is vital that members do not make up their minds before they have all relevant materials and arguments before them at the Planning Committee meeting. Members must retain an open mind at the time the decision is made and not make up their minds or appear to have made up their minds until they have heard the officer's presentation and evidence at the Planning Committee when the matter is considered. This is particularly important if a member is contacted by an external interest or lobby group. If a member has made up their mind prior to the meeting and is not able to reconsider their previously held view, they will not be able to participate in the determination of the matter by the Authority because if they did take part in the discussion or vote it would put the Authority at risk in a number of ways. Firstly, it would probably, in the view of the Local Government Ombudsman, constitute maladministration. Secondly, the Authority could be at risk of legal proceedings on a number of possible grounds: -

- That there was a danger of bias on the part of the member; and/or
- Predetermination; and/or
- A failure to take into account all of the factors which would enable the proposal to be considered on its merits

5.2 Members are entitled to feel predisposed towards a particular decision but must still be able to consider and weigh relevant factors before reaching their final decision. Predetermination arises when members' minds are closed, or reasonably perceived to be closed, to the consideration and evaluation of the relevant factors. This risks making the whole decision vulnerable to legal challenge. Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. For example, a councillor who states "wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before committee" has a closed mind. A councillor who states "many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area" does not have a closed mind although they are predisposed towards opposing such applications.

5.3 Members may take part in the debate on a proposal when acting as part of a consultee body (i.e., where they are also a member of the county or parish council as well as being a member of the Authority) provided that: -

- They make clear during discussion at the consultee body that: -
  - (i) Their views are expressed on the limited information before them only; and
  - (ii) They will reserve judgement and the independence to make up their own mind on each separate proposal when it comes before the District Council's Planning Committee, and they have heard all the relevant information; and
  - (iii) They will not in any way commit themselves as to how they or others may vote when the proposal comes before the District Council's Planning Committee.

In the interests of transparency, the member should, in such circumstances, disclose the personal interest regarding their membership of the consultee body when the District Council's Planning Committee comes to consider the proposal.

5.4 Where a member has already made up their mind ("fettered their discretion") and therefore declines to speak or vote on a proposal, they do not also have to withdraw (unless they have a disclosable pecuniary interest and have not obtained a dispensation) but they may prefer to do so for the sake of appearances.

5.5 If a member decides to stay in the meeting, they should explain that they do not intend to speak and vote because they have (or could reasonable be perceived as having) judged the matter elsewhere, so that this may be recorded in the minutes.

5.6 Members who have participated in the development of planning policies and proposals need not and should not normally exclude themselves from decision making on individual applications for that reason.

## **6.0 Development Proposals Submitted by Councillors and Officers and Council Development**

6.1 Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

6.2 Such proposals must be handled in a way that gives no grounds for accusations of favouritism. In particular: -

- If a member or officer submits their own proposal to the Authority, they should play no part in its consideration
- The Council's Monitoring Officer should be informed of any proposal submitted by any member, or any officer employed by the Authority on the grade of Business Manager or above or any officer who would otherwise have been involved in processing or determining the application
- Such proposals should be reported to the Planning Committee and not dealt with by officers under delegated powers

6.3 A member will have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer but the councillor, as applicant, should also not seek to improperly influence the decision.

6.4 Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

## **7.0 Lobbying of and by Councillors**

7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the Planning Committee. The Nolan Committee's 1997 report stated: "it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

7.2 Lobbying can, however, lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

- 7.3 When being lobbied, councillors and members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.
- 7.4 In such circumstances, members should consider restricting themselves to giving advice about the process and what can and cannot be taken into account.
- 7.5 Members can raise issues which have been raised by their constituents with officers.
- 7.6 If a member does express an opinion to objectors or supporters, it is good practice to make it clear that they will only be in a position to make a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations at Planning Committee.
- 7.7 If any councillor, whether or not a Planning Committee member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once the opportunity to make representations has been completed in order to counter any suggestions that members of the Committee may have been influenced by their continuing presence.
- 7.8 In no circumstances should planning decisions be made on a party-political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 7.9 Planning Committee members and members of the Local Development Framework Task and Finish Group should in general avoid organising support for or against a planning application and should not lobby other councillors.
- 7.10 Members should not put pressure on officers for a particular recommendation or decision and should not do anything which compromises, or is likely to compromise, the officer's impartiality or professional integrity.
- 7.11 Members should pass any lobbying correspondence received by them to the Business Manager – Planning Development at the earliest opportunity.
- 7.12 Any offers made of planning gain or restraint of development, through a proposed S106 Agreement or otherwise should be referred to the Business Manager – Planning Development.
- 7.13 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 7.14 Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate officers to follow the matter up.

## **8.0 Requests to Refer Items to Committee**

- 8.1 If a member requests that a matter be referred to Planning Committee for determination, where it would otherwise be dealt with by officers acting under delegated powers, they should give written reasons for that request and those reasons should relate solely to matters of material planning concern. The member should also observe the additional rules and requirements set out in the Council's Constitution and/or Planning Scheme of Delegation.

## 9.0 Pre-Application Discussions

- 9.1 Pre-application discussions between a potential applicant and the Council can benefit both parties and are therefore encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- 9.2 Councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors to lead on community issues and helps to ensure that issues do not come to light for the first time at Planning Committee. Officers should therefore consider involving the local ward member(s) particularly in relation to major applications and where a Development Consultation Forum does not apply (refer paragraph 9.3 below). However, in order to avoid perceptions that councillors might have fettered their discretions, such discussions should take place in accordance with the following guidelines: -
- (i) It should be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
  - (ii) It should be acknowledged that consistent advice should be given by officers based upon the development plan and material [planning] considerations.
  - (iii) Officers should be present with members in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage.
  - (iv) Members should not become drawn into any negotiations which should be done by officers (keeping interested members up to date) to ensure that the Authority's position is co-ordinated.
  - (v) A written note should be made of all meetings. An officer should make the arrangements for such meetings, attend, and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised, or advice given can still normally be placed on the file to reassure others who are not party to the discussion.
  - (vi) Care should be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to Committee could appear to be advocacy.
- 9.3 Some pre-application and pre-decision proposals are of a scale or complexity, for example, whereby engaging with members, Town/Parish Councils and Meetings as well as the public can be of benefit to enable wider understanding. Such proposals will be, with the agreement of the Business Manager – Planning Development, Chairman and Vice Chairman of Planning Committee in consultation with the Ward Member(s), recommended to be presented via a Development Consultation Forum (DCF). Such Forum's will enable wider engagement in accordance with the Council's Statement of Community Involvement. They will not be a decision-making meeting. The purpose, process and schemes that might be eligible are detailed within the document 'Development Consultation Forums, Guidance for Developers and Public [hyperlink once adopted]'. The Chairman of the DCF will be agreed prior to the meeting being held and will be either a District Councillor or Officer of the Planning Development department.
- 9.4 Although the term "pre-application discussions" has been used, the same consideration should apply to any discussions which occur before a decision is taken.
- 9.5 Common sense should be used by members in determining the scale of the proposals to which the guidelines set out in 8.1 above will apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. Keeping a register of such conversations would be neither practical nor necessary. If for example a member is approached by an applicant or an objector in respect of what could reasonably be considered to be a minor application, it would be more appropriate for the member

concerned to give advice on process only and what can and cannot be taken into account (see paragraph 7.4 ante) and to refer the constituent to a planning officer if they need planning or technical advice.

## **10.0 Officer Reports to Committee**

- 10.1 Officer reports to Committee should be comprehensive and should include the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations and any other material [planning] considerations.
- 10.2 Reports should have a written recommendation for a decision to be made.
- 10.3 Reports should contain technical appraisals which clearly justify the recommendation.
- 10.4 If the reports recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under S38A of the Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990.
- 10.5 Any oral updates or changes to the report should be recorded.

## **11.0 Consideration of Business on the Public Agenda**

- 11.1 All applications to be decided by the Planning Committee will be dealt with as follows:
- i. Members who have pre-determined the proposal or have a Disclosable Pecuniary Interest (DPI) will be required to leave the meeting whilst the relevant agenda item is debated. Officers with a DPI will also be required to leave.
  - ii. The Chairman will announce the agenda item number.
  - iii. The Planning Officer will introduce the application with any relevant updates and provide a visual presentation to aid Members' understanding of the context of the application.
  - iv. The Chairman will propose and Vice-Chairman second the Officer recommendation [noting that this does not fetter their ability to vote to the contrary after taking all relevant matters into account].
  - v. The Chairman will invite any Ward Member and/or Parish/Town Council or Parish Meeting representative to speak to the item. Each speaker will be limited to 5 minutes.
  - vi. The Chairman will then ask Members if they have technical questions of officers
  - vii. The Planning Committee will then discuss/debate the application.
  - viii. Members may seek further clarification of: -
    - a) particular points from Officers, regarding the application; or
    - b) on points raised by speaker(s), in the main debate, through the Chairman. Officers will respond to issues and questions raised by Members.
  - ix. The Committee will then make a decision by vote.
  - x. Refusals, contrary to Officer recommendation will, alongside recording each Member's vote, also record the proposer and seconder for the refusal.

## **12.0 Public Speaking at Planning Committees**

- 12.1 Members of the public, including any applicant or objector, are not entitled to speak at meetings of the Planning Committee and should accordingly submit any representations in writing.

- 12.2 All representations received will be reported to Planning Committee. Where they are received late, and after publication of the agenda for the Committee they will be reported to the Committee by means of a late paper summarising any late representations received in respect of items on the agenda for the Committee.
- 12.3 References to Parish Councils shall include Town Councils. Parish Councils may appoint a representative to make representations on behalf of the Parish Council in respect of any planning application submitted within the area of the relevant parish, or where it can clearly be demonstrated to the satisfaction of the relevant Business Manager – Planning Development in consultation with the Chairman and Vice Chairman of the Planning Committee that the application will have a material impact on the whole or part of the Parish Council’s area.
- 12.4 The Parish Council should notify the Council’s Democratic Services Team, by 5pm the working day before the meeting that they wish to make representations and the name of their nominated representative.
- 12.5 Such nominated representative should be the clerk or other officer or a member of the Parish Council and as such they will be bound by their own Authority’s rules on conduct. Any professional agent or other third party appointed by the Parish Council shall have no right to speak at Committee.
- 12.6 The nominated representative shall put forward views or representations which reflect the views of the Parish Council which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Parish Council which they represent.
- 12.7 A Parish Meeting shall have the same rights to appoint a representative to speak on their behalf as a Parish Council provided that they are able to evidence that they are reflecting the views of the Parish Meeting (for example as recorded in the minutes of the Parish Meeting) rather than their personal views.
- 12.8 The local ward member for the area in respect of which the planning application is situated shall have the right to make representations to the Committee. A member shall also have the right to make representations for applications outside their ward area in circumstances where it can clearly be demonstrated to the satisfaction of the Business Manager – Planning Development in consultation with the Chairman and Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their ward area. Any member wishing to exercise their right to speak under this provision shall be required to first notify the Council’s Democratic Services team by 5pm the working day before the meeting that they wish to make representations and, if the application is outside their ward area, the reasons why they consider that the application will have a material impact on the whole or part of their ward area.
- 12.9 A member from a neighbouring district/borough council shall have the right to make representations on behalf of that council and reflecting the views of that council to the Planning Committee in circumstances where it can clearly be demonstrated to the satisfaction of the Business Manager – Planning Development in consultation with the Chairman and Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their Council area. A member wishing to exercise their rights under this paragraph shall be required to first notify the Council’s Democratic Services team by 5pm the working day before the meeting that they wish to make representations on behalf of their Council and shall also provide evidence that these representations will reflect the views of that Council and evidence that the application will have a material impact on the whole or part of their Council area.
- 12.10 The right to make representations as set out in 11.3, 11.7, 11.8 and 11.9 ante, shall be limited to a maximum 5-minute duration.

12.11 New documents should not be circulated to the Committee. Councillors may not be able to give proper consideration to the new information and Officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak. If, in exceptional circumstances and at the Chairman's discretion, new documents are accepted, the meeting may be adjourned for them to be properly considered.

12.12 Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

### **13.0 Decisions Which Differ from an Officer Recommendation**

13.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (S38A Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990).

13.2 This applies to all planning decisions. Any reasons for refusal and any approval must be justified against the development plan and other material considerations.

13.3 The courts have expressed the view that the Planning Committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.

13.4 Planning Committees can, and often do, make a decision which is different from the Officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

13.5 The Planning Committee should take the following steps before taking a decision which differs from an officer recommendation: -

- (i) Record the detailed reasons as part of the mover's motion
- (ii) If necessary, adjourn for a few minutes for those reasons to be discussed and then agreed by the Committee
- (iii) Where there is concern about the validity of reasons and/or officer concern about a potential award of costs on appeal, consider deferring to another meeting to have the putative reasons tested and discussed.
- (iv) Ensure that a recorded vote is taken, recording the individual names of those voting for and voting against the motion and the names of those abstaining.

13.6 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the Committee's reasons shall be made, and a copy placed on the application file. A number of appeals are confined in the documents that can be used to defend its appeal (officer report and Committee minutes only). Councillors should be prepared to explain in full their planning reasons for not agreeing with the Officer's recommendation. Pressure should never be put on officers to "go away and sort out the planning reasons".

13.7 The officer(s) should also be given an opportunity to explain the implications of the contrary decision should one be made.

13.8 Applications which are refused contrary to Officer recommendation and subsequently appealed should be defended by either and/or both the proposing or seconding Member to the resolution or any other Member who is willing to defend the Council's decision.

- 13.9 All applications that are clearly contrary to the development plan and constitute notifiable departures must be advertised as such and are known as “departure” applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- 13.10 The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (S77 of the Town and Country Planning Act 1990). If the Officer’s report recommends approval of such a departure, the justification for this should be included, in full, in that report.

## **14.0 Committee Site Visits**

- 14.1 Committee site visits do not constitute formal meetings of the Council but rather their purpose is to enable members to observe the site and to gain a better understanding of the issues. Accordingly, attendance by members at Committee site visits is not essential and non-attendance will not preclude a member from discussing and voting on the relevant matter at the Planning Committee meeting. Notwithstanding this, members should make every effort to attend where it is considered that a site visit is necessary and appropriate. In addition, any relevant information which members have gained from the site visit will be reported back to the Committee so that all members have the same information.
- 14.2 Site visits should only be conducted where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already. A site visit should not take place unless:
- (i) There are particular site factors which are significant in terms of the weight attached to them relative to other factors if they would be difficult to assess in the absence of a site inspection; or
  - (ii) There are specific site factors and/or significant policy or precedent implications that need to be carefully addressed; or
  - (iii) The impact of the proposed development is difficult to visualise; or
  - (iv) The comments of the applicant and/or objectors cannot be expressed adequately in writing; or
  - (v) The proposal is particularly contentious, and the aspects being raised can only be viewed on site.
- 14.3 A record should be kept of the reasons why a site visit is called. It is important that the Council adopts a clear and consistent approach on when and why to hold a site visit and how to conduct it to avoid accusations that visits are arbitrary, unfair or a covert lobbying device.
- 14.4 Only members of the Planning Committee, the local ward member(s) and officers should participate in site meetings. A member who is not the local ward member but is able to demonstrate to the satisfaction of the Business Manager - Planning Development in consultation with the Chairman of the Planning Committee prior to the site meeting taking place that the application will have a significant impact on their ward may be permitted to attend the site meeting.
- 14.5 The applicant may be present on site but should be kept a discreet distance away from the Planning Committee members and officers so that they cannot be a party to any comments or questions raised. Upon the refusal of the applicant to respect this requirement, the Committee shall leave the site immediately.
- 14.6 Members should not express opinions or views at the site meeting but may ask officers present questions or seek clarification from them on matters which are relevant to the site investigation.
- 14.7 Under no circumstances should the site visit members hear representations from any party other than the local ward member. Observations of the ward member(s) should be confined to site factors and site issues. If any member present at a site visit is approached by the applicant or a third party, they should

advise them that they should make representations in writing to the Authority and should direct them to or inform the officer present.

- 14.8 Once a councillor becomes aware of a proposal, they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points, and they have no individual rights to enter private property. Any request by the owner/occupier of a site to enter on to a premise or by a neighbour to view a site from their premise should be strongly resisted to avoid the risk of the owner/occupier/neighbour trying to influence that member improperly, potentially creating a perception of bias and risk of legal challenge or allegation of maladministration.

## **15.0 Voting at Committee**

- 15.1 Any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter. For clarity, the *'whole of the presentation and debate'* comprises only the presentation and debate on the day the application is determined. It does not include any previous presentation and/or debate of the item for either referrals or resolutions to approve subject to *'...'* which might include completion of a s106 planning obligation, consultations, or notifications to expire or other matters.

## **16.0 Deferral**

- 16.1 Members should not seek to defer consideration of any item put before the Planning Committee unless there are clear and demonstrable reasons for doing so such as a relevant planning issue arising for the first time not having been previously considered and needing further investigation.
- 16.2 Where a Member might otherwise be minded to seek deferral of an item by reason that they wish to seek clarification on a particular issue, consider that further material information is required on a particular matter or for any other substantial reason, they should seek to obtain such clarification or additional information from the relevant Business Manager or the relevant Case Officer at least two hours prior to the commencement of the Planning Committee meeting.

## **17.0 Biennial Review of Decisions**

- 17.1 It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.
- 17.2 Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

## **18.0 Complaints**

- 18.1 Complaints relating to planning matters will be dealt with in accordance with the Council's complaints procedures.
- 18.2 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by Committee and under delegated powers, and to applications, enforcement, and development plan matters.