

Part 3 – Planning Committee

Part 3 (a) – Terms of Reference of the Planning Committee

Council has determined that the Planning Committee shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

1.	Planning Committee	
Appointed by:		Number of Elected Members:
The Council under section 102 of the Local Government Act 1972		Nine
Chair and Vice-Chair appointed by:		Political Proportionality:
The Council		The elected Members shall be appointed according to Political Proportionality.
Quorum:		Co-opted Members to be appointed by Council:
Three		Two non-voting co-opted Members appointed each year by the Council:
		<ol style="list-style-type: none"> 1. one to represent the interests of trade and commerce in Thurrock; and 2. one to represent the interests of heritage and/or the countryside and conservation
Code:		
<ol style="list-style-type: none"> 1. The Planning Committee Procedures in Part 3(b) of this Chapter. 2. Code of Practice for Members and Officers – Planning Applications, in Part 3(d) of this Chapter. 		
Terms of reference:		
<ol style="list-style-type: none"> 1. To determine planning and similar or related applications for the use or development of land or applications for advertisement control consent, to take enforcement or other action, or generally to control or comment upon the use and development of land, including untidy sites. The Applications to be considered by the Planning Committee are set out at Part 3(b), Rule 2.1. 2. To determine applications for conservation area consent, or to take enforcement or other action in relation to buildings in conservation areas; 3. To exercise the Council's powers in relation to tree preservation orders and hedgerow protection; 4. To exercise the Council's powers in relation to the creation, diversion and stopping-up of highways, including footpaths and bridleways; 5. To exercise the Council's powers in relation to the protection and enjoyment of the highway and to keep the definitive map and statement under review; 		

6. To keep under review and make minor alterations as necessary to the Committee's procedures.
7. To provide appropriate and timely responses to any statutory NSIP consultation.

Without prejudice to the generality of the foregoing, this delegation includes the functions as set out in column (1), paragraph A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and all legislation appertaining to planning contained in the Planning Acts including changes introduced by the Localism Act 2011 and the Growth and Infrastructure Act 2013 including any delegated legislation made pursuant to the Planning Acts and any amendments thereto.

Part 3 (b) – Planning Committee Procedures

1. Interpretation

- 1.1 Subject to paragraphs 1.2 and 1.3 below, these procedures shall be interpreted in accordance with the Council's Constitution.
- 1.2 "Chair" includes, in addition to the Vice-Chair, any Member of the Planning Committee elected to Chair a particular meeting.
- 1.3 "Application" means an application for planning permission, an application under Part 24, Schedule 2 of the General Permitted Development Order 1995 (as amended), the demolition of a building within a conservation area, advertisement control consent, works to trees, a certificate in relation to lawful uses or otherwise within the terms of reference of the Committee.
- 1.4 "Planning Officer" means the Assistant Director for the time being charged with processing planning, and similar or related applications and advising the Planning Committee on them, or someone authorised by him/her to act on his/her behalf.
- 1.5 "Senior Officer" means the Chief Executive / Head of Paid Service, Directors and Assistant Directors employed by Thurrock Council.
- 1.6 Any reference in these procedures to an Application or matter being decided or determined by a body or person includes a reference to commenting upon or responding to a consultation in relation to any Application.

2. Applications to be considered by the Planning Committee

- 2.1 The following Applications will be considered by the Planning Committee:
 - (a) Applications that in the opinion of the Planning Officer have significant policy or strategic implications, including departures from the approved development plan which would require referral to the Secretary of State;
 - (b) All Applications by or on behalf of the Authority in accordance with the provisions of the Town and Country Planning General Regulations;
 - (c) All Applications by or on behalf of Members, Senior Officers or Officers employed in the Authority's Planning, Transportation and Public Protection Assistant Directorate (including close relatives of such Members or Officers).
 - (d) Any Application where a request is made in writing that it should be considered by the Planning Committee by:
 - (i) A Ward Member and one other Member of the Council with the agreement of the Chair, where the Application is for development within their ward;
 - (ii) Any five Members of the Council.
 - (e) Any such request must clearly and precisely specify the planning grounds on which the request is being made.

- (f) If a Member of the Planning Committee who is party to a request made under 2.1(d) for an application to be considered by the Planning Committee subsequently declares a disclosable pecuniary interest in that application, the item will be withdrawn from the Agenda and dealt with by Officers under delegated authority.

3. Planning applications list

The weekly list

- 3.1 The Planning Officer shall prepare weekly a list of Applications ("Applications List") that will indicate which are to be considered by the Planning Committee and which are likely to be determined by Officers under delegated powers. Members will be notified if and when a delegated decision is considered by the Planning Committee under Rule 2.1 (d).
- 3.2 The Planning Applications list will be circulated to all Members of the Council and will be available on the Authority's intranet and website:
regs.thurrock.gov.uk/online-applications

Time limits

- 3.3 In accordance with Rule 2.1(a) above Members must notify the Planning Officer in writing within three weeks of the issue of the weekly Planning Applications List under Rule 3.1 above whether they require any Application to be reported to the Planning Committee. If in any doubt, or more information or clarification on any matter is required, Members are advised to contact the Planning Officer. On receipt of a request from the required number of Members (including the agreement of the Chair where required) the Application will be reported to the Committee.

4. Enforcement functions

- 4.1 The decision on whether or not to pursue or vary enforcement action against any breach of planning control is delegated to the Planning Officer and in consultation with the Assistant Director of Law and Governance.
- 4.2 At least quarterly a list updating on the progress cases where enforcement and other formal action is being taken will be prepared and circulated to all Members of the Council.
- 4.3 Any two Members with the agreement of the Chair, or any five Members, may require a report to Committee on any enforcement matter. Such requests should be made in writing to the Planning Officer at the earliest opportunity, following a discussion with that Officer. Any such request must clearly and precisely specify the planning grounds on which the request is being made.

5. The public addressing the Committee

- 5.1 The Planning Committee may allow objectors and applicants/planning agents, and also owners of premises subject to enforcement action, or their agents, to address the Committee.
- 5.2 The Rules for the conduct of the public in addressing the Committee are set out at Part 3(c) of this Chapter.

6. How decisions are taken at meetings

6.1 The normal procedure is:

- (a) The Chair takes the item in the order listed on the agenda
- (b) The Planning Officer introduces the item, clarifying any issues as necessary
- (c) Speaker in opposition (if any) addresses the Committee in accordance with Part 3(c) - 3 minutes
- (d) Ward Councillor (if any) addresses the Committee in accordance with Part 3(c) - 3 minutes
- (e) The Chair may at his/her absolute discretion invite any Ward Member not falling within Rule 6.1(d) above to briefly address the Committee.
- (f) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Members' Code of Conduct. The Member will withdraw immediately after speaking.
- (g) Applicant or agent/representative addresses the Committee in support (if any) in accordance with Part 3(c) - 3 minutes
- (h) The Committee may seek clarification of those who have spoken on any issues raised in their address.
- (i) The Planning Officer shall address any issues resulting from the procedure set out in Rule 6.1(a) to (h) above and the Committee may put questions to the Planning Officer.
- (j) The Committee then debates the matter and does not hear any additional representations or comments from the public or non-Committee Members, but may seek further clarification from Officers.

6.2 When the Chair considers that there has been sufficient debate, he/she will call for a decision. A vote may be taken on the recommendation in the report, once proposed and seconded, or on a motion moved by a Member of the Committee, altering the report's recommendation.

6.3 A motion moved by a Member of the Committee that alters the wording of the recommendation of the report must be seconded and be supported by planning reasons for the alteration and those reasons will be set out in the Minutes of the Meeting.

6.4 If the Chair calls for the application to be determined a vote shall be taken on the recommendation of the Planning Officers. If this fails, an alternative motion may be made by any Member of the Committee.

6.5 If an alternative motion is moved by a Member of the Committee it must be supported by clear planning reasons and seconded prior to being put to the vote. Those reasons will be set out in the minutes of the meeting.

- 6.6 The Planning Officer and/or the legal adviser shall be afforded the opportunity to advise the Committee during the course of debate or any other stage of the meeting.
- 7. Decisions contrary to Officers recommendations and/or the Development Plan**
- 7.1 The law requires that where regard is to be had to the Development Plan, decisions should be taken in accordance with it, unless material considerations indicate otherwise (section 38(6), Planning and Compensation Act 2004).
- 7.2 If the Planning Committee seeks to make a decision contrary to the Planning Officer's recommendation (whether for approval or refusal), the following will apply:
- (a) The mover of the motion should clearly specify or write down the motion including the reasons for departing from the Officer recommendation. Both the reasons and the motion should be put to the Committee orally and in public even if the reasons are tentative. Any such motion must be seconded;
 - (b) The Planning Officer should always be given the opportunity to explain the implications of what has been proposed to the Planning Committee in public before any vote is taken;
 - (c) If the Planning Committee's arguments against the Planning Officer's recommendations are very clear and substantiated and no longer tentative on planning grounds the application shall be determined at the meeting. If not, the application should be deferred to enable the Planning Officer to draft a further report for a subsequent meeting of the Committee, outlining the implications of making a decision contrary to the Planning Officer's recommendation. If appropriate, the legal advisor's opinion should be sought as to whether a deferral is necessary. The Committee's reasons must be formally recorded in the minutes.
- 7.3 When a planning application has been referred to a future meeting following a resolution of 'minded to approve' or 'minded to refuse', contrary to the Planning Officer's recommendation, then at a subsequent Committee meeting, the Planning Officer will prepare a further written report that will include the reasons formulated by the Committee for being minded to grant or refuse permission.
- 7.4 If the Committee is still of the same view, then it will again consider its reasons for granting or refusing permission, and a summary of the planning reasons for that decision will be given, which reasons must then be formally recorded in the minutes of the meeting. It is important that the justification for departing from Officer's recommendations that is recorded in the minutes are those reasons given at Committee and in public and that the justification is not subject to later elaboration in the minutes which is more extensive than the oral presentation.
- 7.5 The Courts have expressed the view that reasons should be clear and convincing. Members must satisfy themselves that where they reach a decision contrary to an Officer's recommendation their reasons are substantiated by evidence and that they are able to demonstrate reasonable planning grounds for taking a decision contrary to Officer's advice. Where a decision is taken to refuse an application but the Officer's recommendation is to approve, the Committee must consider whether any conditions

could have allowed the development to have proceeded. In addition, Members should exercise caution in not giving undue weight to any particular consideration.

7.6 In instances where the Planning Committee grants approval of an application against Officer recommendation, the Planning Officer shall draft conditions to be attached to the that approval which shall be agreed in writing with the Chair of the Planning Committee unless the Committee grants delegated authority to the Planning Officer.

7.7 In instances where the Committee refuse an application against the recommendation of the Planning Officer, the detailed reasons for refusal (which shall reflect the minuted reasons provided by the Committee) shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grant delegated authority to the Planning Officer.

8. Site visits by the Planning Committee

8.1 Prior to any meeting of the Planning Committee, the Planning Officer may be of the opinion that a site visit should be arranged to a site that is the subject of an application to be considered by the Committee to enable Members to become familiar with the issues to be considered. Any site visit arranged to take place prior to a meeting of the Planning Committee shall be arranged in accordance with rules 8.6 to 8.10 below.

8.2 Occasionally the Committee may defer taking a decision on an item in order to make a site visit. Reasons for a site visit being made shall be recorded in the minutes.

8.3 The Committee Members who propose and second a site visit should ensure that they attend the visit, or arrange for a substituted Member to attend.

8.4 All Members who attend should ensure that any information gained from the site visit is reported back to the planning Committee so that all Members have the same information.

8.5 Site visits are to be held solely for the purpose of informing the Planning Committee Members by way of visual inspection about the nature of the application. No attempt should be made to make representations or lobby the Committee or individual Members during a site visit.

8.6 The Clerk to the Planning Committee will contact the applicant and/or their planning agent to arrange access to the site or premises. Invitations will be sent to Members of the Committee and Ward Councillors. Applicants and/or their planning agents and any objectors (or a representative or sample of such objectors) shall be informed of the visit. The notification shall contain a brief summary of the procedure to be adopted at the site visit.

8.7 The Planning Committee, along with the Clerk to the Planning Committee and the Planning Officer, shall carry out the inspection in one group. Planning Committee Members and applicants, agents, objectors and Ward Members present shall not engage in individual discussions.

8.8 The Planning Officer and any other Officer present shall draw to the Committee's attention any relevant features of the site.

- 8.9 Members will not take any decision during the site visit but may, through the Planning Officer, ask questions or seek clarification, particularly about the characteristics of the site. Members should refrain from making comments on the merits of the application during the course of the inspection.
- 8.10 The Clerk to the Planning Committee will record the date of the visit, Members present (including non-Members of the Committee) and any other relevant information. A record of the Members present will be included in the minutes of that Meeting.

Part 3 (c) – Public Participation at a Meeting of the Planning Committee

1. Introduction

- 1.1 Planning applications are usually determined either by Officers acting under delegated authority or by the Planning Committee.
- 1.2 The Council wants to provide the opportunity for the public and for applicants (or their agents) to speak at the meetings of the Planning Committee before Members of the Committee take their decision. Anyone who has written to the Council making representations on a planning application will be contacted by Development Management upon publication of the relevant agenda and will be advised of the relevant process relating to public speaking (see paragraphs 2.4 and 3.1-3.3 below).
- 1.3 Upon receipt of a request to speak at a meeting of the Planning Committee, Democratic Services will organise all such public speaking.

2. Who can speak at a meeting of the Planning Committee?

- 2.1 Only the following may address the Planning Committee:
 - (a) In the case of a planning application:
 - (i) An objector or their representative (or a speaker in support of the application if no objector requests to speak) ;
 - (ii) A Ward Councillor;
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Members' Code of Conduct.
 - (iv) An applicant or his/her agent or representative.
 - (b) In the case of an enforcement matter:
 - (i) An objector or their representative (or a speaker in support of the application if no objector requests to speak) ;
 - (ii) A Ward Councillor;
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Members' Code of Conduct;
 - (iv) The owner or occupier of premises under enforcement action or his/her agent or representative.
- 2.2 Only one person, in addition to a Ward Councillor, will be invited to speak in support of, or in opposition to, any application or enforcement matter appearing on the Agenda for a meeting of the Planning Committee.

- 2.3 Subject to paragraph 2.2, if a person wishes to speak in objection to an application, the applicant must be allowed to speak. An applicant may speak at a meeting even where there are no objectors or Ward Members wishing to speak.
- 2.4 All requests to speak at a meeting of the Planning Committee, including those from Ward Councillors or those notified under paragraph 1.2, must relate to a matter to be considered at the forthcoming meeting of the Committee and be accompanied by a written statement sufficiently setting out the planning matters the speaker wishes to raise at the meeting.

3. How can I speak at a meeting of the Planning Committee?

- 3.1 All requests to speak, including those from Ward Councillors or those notified under paragraph 1.2, should be received by Democratic Services no later than noon two working days prior to the meeting, excluding the day on which the meeting is to be held, (for example, as the Planning Committee usually meets on a Thursday, the deadline for registration and receipt of a written statement, sufficiently setting out the planning matters the speaker wishes to raise at the meeting, will be 12 Noon on the Tuesday before the day of the meeting) in one of the following ways:

- (a) In writing, addressed to:

**Clerk to the Planning Committee
Democratic Services
Thurrock Council
Civic Offices
New Road
Grays
RM17 6SL**

- (b) Via a form on the Council's web site at:

www.thurrock.gov.uk/attending-public-meetings

- (c) By e-mail to

direct.democracy@thurrock.gov.uk

- (d) If any assistance in registering to speak at a meeting is required, please telephone (01375) 652 831.

- 3.2 The Chair of the Planning Committee will not normally allow members of the public to speak if they have failed to notify the Council of their wish to do so in one of the ways described above.
- 3.3 Where there is more than one request to speak on a particular application, the requests made will be entered into a ballot. To ensure transparency, the ballot will be held at 4.00 p.m. two working days prior to the Meeting (excluding the day on which the Meeting is to be held) and applicants/owners and/or their planning agents and objectors will be invited to witness the ballot. All potential speakers will be advised of the outcome.
- 3.4 Where a request is made to speak in opposition to an Application, the applicant or agent shall have the right to reply at the Committee. A copy of the speaker's written objection will

be forwarded to the applicant or their agent and, if they wish to speak at the Committee, the applicant or agent must forward their response, in writing, to Democratic Services by noon on the working day before the meeting of the Committee.

- 3.5 Although Democratic Services will make every effort to advise the applicant/agent where any such notice has been received, it is the responsibility of the applicant/agent to check two working days (excluding the day on which the Committee is to be held) before the application is to be considered as to whether or not anyone has registered to speak.
- 3.6 The Committee will be provided with copies of the written statements, as referred to at Rule 2.4, from all speakers prior to the meeting and the relevant agenda and reports will be published to the Council's web site at least five working days before the meeting, with a limited number of copies being made available to persons attending the Meeting.
- 3.7 The Chair may agree to accept representations made outside these procedures where there are exceptional circumstances, for example where someone can show that they have been prejudiced by a failure of the Council to follow procedures in this Constitution. The Chair will state the reasons for using his/her discretion in this respect and these will be included in the minutes of the meeting.

4. What happens at the meeting of the Planning Committee?

- 4.1 Applications will usually be taken in the order that they appear on the published Agenda. However, the Chair may exercise some discretion to allow for those applications subject to public participation to be taken first.
- 4.2 For any applications that are subject to public participation, the order in which registered speakers will be called to address the Committee will be as follows:
- (a) In the case of a planning application:
 - (i) An objector or their representative (or a speaker in support of the application if no objector requests to speak) ;
 - (ii) A Ward Councillor;
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance the Members' Code of Conduct;
 - (iv) An applicant or his/her agent or representative;
 - (b) In the case of an enforcement matter:
 - (i) An objector or their representative (or a speaker in support of the application if no objector requests to speak)
 - (ii) A Ward Councillor
 - (iii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Members' Code of Conduct;

- (iv) The owner or occupier of premises under enforcement action or his/her agent or representative;

- 4.3 A person who has registered to speak may address the Committee for a period not exceeding 3 minutes. If the time limit is exceeded, the Chair will immediately call for an end to the speech.
- 4.4 If a person who has registered to speak at the meeting does not attend, the application will be dealt with in their absence and will not, for that reason, be deferred.
- 4.5 No documentation may be circulated or audio or visual material presented to Members of the Planning Committee at the meeting.
- 4.6 The Planning Officer or the lawyer advising the Committee, in consultation with the Chair, may disallow any matter which may give offence, deal with confidential or exempt information or otherwise infringe the proper conduct of local government. In such cases, reasons for the disallowance will be given.
- 4.7 If the Committee decides to defer an item to a future meeting, any speakers on that item who have spoken at the time of deferring may, with the Chair's agreement, be given first priority to speak when the item is re-considered where there are exceptional circumstances, for example, where it can be shown that they would be prejudiced by a failure to allow them to speak again.

5. What can you speak about?

- 5.1 Speakers can speak for themselves or on behalf of others. Any representations made should relate only to material planning considerations and not matters that fall outside the remit of the Committee.
- 5.2 Speakers are asked where possible not to repeat points made by other speakers.

Part 3 (d) – Planning Code of Good Practice

1. Background

- 1.1 This Planning Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and replaces the Council's former local code of conduct on planning matters.
- 1.2 This Code is based on the model adopted by the Association of Council Secretaries and Solicitors (ACSeS) and launched on the 14th February 2003, and has been updated. The drafting of the model code was subject to consultation and comment from a number of other local authorities through the machinery of ACSeS, the former Standards Board for England, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

2. Introduction

- 2.1 The aim of this Code of Good Practice 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.
- 2.2 The basis of the planning system is the consideration of private proposals against wider public interests. The key purpose of the planning system is to control development in the public interest.
- 2.3 Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 This Code of Good Practice applies to Members at all times when they involve themselves in the planning process. This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 2.5 This Code is drafted in terms of what you should do and what you should not do. If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

3. Relationship to the Members' Code of Conduct

- 3.1 Do apply the Rules in the Members' Code of Conduct first, which must be always be complied with.
- 3.2 Do then apply the Rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
- (a) the Council at risk of proceedings on the legality or maladministration of the related decision; and

- (b) yourself at risk of either being named in a report made to the Standards and Audit Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards and Audit Committee

4. Registration and declaration of interests

- 4.1 Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. (Use the disclosure form provided for disclosing interests.)

Where your interest is a disclosable pecuniary interest:

- 4.2 Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Planning Authority.
- 4.3 Don't try to represent ward views, get another Ward Member to do so instead.
- 4.4 Don't get involved in the processing of the application.
- 4.5 Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- 4.6 Do notify the Monitoring Officer in writing and note that:
 - (a) you should send the notification no later than submission of that application where you can
 - (b) the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers
 - (c) it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee
- 4.7 Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee after being granted a dispensation but only to make a presentation in the same manner than would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery.)

5. Fettering Discretion in the Planning Process: predetermination, predisposition or bias

- 5.1 Don't fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your

mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

- 5.2 Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 5.3 Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of Membership of both the proposing and planning determination Committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 5.4 Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council, for example, or both a District/Borough and County Councillor), provided:
- (a) the proposal does not substantially affect the well-being or financial standing of the consultee body;
 - (b) you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 - (c) you disclose the personal interest regarding your Membership or role when the Committee comes to considers the proposal
- 5.5 Don't speak and vote on a proposal where you have fettered your discretion or you are pre-determined. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- 5.6 Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- 5.7 Do take the opportunity to exercise your separate speaking rights as a Ward/Local Member (this is granted by the planning procedure Rules or by the consent of the Chair

and Committee) where you have represented your views or those of local electors and pre-determined, but do not have a disclosable pecuniary interest. Where you do:

- (a) advise the Monitoring Officer or Chair that you wish to speak in this capacity before commencement of the item
- (b) remove yourself from the Member seating area for the duration of that item
- (c) ensure that your actions are recorded and that you have been granted a dispensation to speak in accordance with the Members' Code of Conduct

6. Development proposals submitted by Councillors and Officers, and Council Development

- 6.1 Do be aware that proposals to their own authority by serving and former Councillors, Officers and their close associates and relatives can easily give rise to suspicions of impropriety. Therefore, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 6.2 Don't play any part in the decision-making process for applications by yourself or your relatives or friends. The consideration of a proposal from a Councillor in such circumstances would be considered as a disclosable pecuniary interest under the code and as such, the Councillor would be required to withdraw from any consideration of the matter.
- 6.3 Don't seek to 'improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any fewer rights than a member of the public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.
- 6.4 Do consider whether it would be wise to exercise your right to speak as an applicant at the Committee considering your application in all the circumstances of the case, which could include the nature of the disclosable pecuniary interest and the relationship of the Councillor with the remainder of the Planning Committee.
- 6.5 Do consider your position if you are a Member whose Cabinet / Executive responsibility effectively makes you an advocate for the development in question. In such circumstances, the appropriate approach is likely to be that the Member is able to argue for the development but should not vote on the relevant applications.

7. Contact with Applicants, Developers and Objectors

- 7.1 Do refer those who approach you for planning, procedural or technical advice to officers.
- 7.2 Do report to the Planning Officer or Monitoring Officer any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

Meetings

- 7.3 Don't agree to any meeting with applicants, agents, developers or groups of objectors where you can avoid it.

- 7.4 Do speak to the Planning Officer where you feel that a formal meeting would be useful in clarifying the issues.
- 7.5 Don't seek to arrange that meeting yourself but ask the Planning Officer to organise it. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- 7.6 Do otherwise:
- (a) follow the Rules on lobbying (see Paragraph 8 below)
 - (b) consider whether or not it would be prudent in the circumstances to make notes when contacted

Presentations

- 7.7 Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.
- 7.8 Do ask relevant questions at any presentation for the purposes of clarifying your understanding of the proposals.
- 7.9 Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the Planning Authority.
- 7.10 Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

8. Lobbying of Councillors

- 8.1 Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or to express such a firm point of view that it amounts to the same thing.
- 8.2 Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 8.3 Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register of interests where its value is over £25 (in accordance with the authority's Rules on gifts and hospitality).
- 8.4 Do copy or pass on any lobbying correspondence you receive to the Monitoring Officer at the earliest opportunity.
- 8.5 Do promptly refer to the Planning Officer any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

- 8.6 Do inform the Monitoring Officer where you feel you 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.
- 8.7 Do note that, unless you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
- (a) listening or receiving viewpoints from residents or other interested parties
 - (b) making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind
 - (c) seeking information through appropriate channels
 - (d) being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

9. Lobbying by Councillors

- 9.1 Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are may have a non-pecuniary, pecuniary and / or disclosable pecuniary interest.
- 9.2 Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- 9.3 Don't excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- 9.4 Don't decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political group meetings should never dictate how Members should vote on a planning issue.

10. Site Visits

- 10.1 Do try to attend site visits organised by the Council where possible.
- 10.2 Don't request a site visit unless you feel it is strictly necessary because:

- (a) particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- (b) there are significant policy or precedent implications and specific site factors need to be carefully addressed

- 10.3 Do ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- 10.4 Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 10.5 Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 10.6 Don't hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 10.7 Don't express opinions or views to anyone.
- 10.8 Don't enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

11. Public Speaking at Meetings

- 11.1 Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the procedure for public speaking, as this may give the appearance of bias.
- 11.2 Do ensure that you comply with the Council's procedures in respect of public speaking.

12. Officers

- 12.1 Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Management Manager, which may be incorporated into any Committee report).
- 12.2 Do recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with an Assistant Director or those officers who are authorised by their Assistant Director to deal with the proposal at a Member level.
- 12.3 Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

13. Decision Making

- 13.1 Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- 13.2 Do come to meetings with an open mind and demonstrate that you are open minded.
- 13.3 Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 13.4 Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 13.5 Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 13.6 Do have recorded the reasons for Committee's decision to defer any proposal.
- 13.7 Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- 13.8 Do follow the Planning Committee Procedure Rules (Rule 7 in Part 3 (b) above) when considering proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan.
- 13.9 Do be aware that you may have to justify the resulting decision against officer recommendation by giving evidence in the event of any challenge.

14. Training and Review

- 14.1 Don't participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 14.2 Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plan beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 14.3 Do participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.