

AGENDA ITEM NO.

<b>ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>Report to</b>	<b>The Executive &amp; Full Council</b>
<b>Date</b>	<b>Executive 03.12.12 Full Council 06.12.12</b>
<b>Subject</b>	<b>To Make Changes to the Planning Matters Procedure Rules (Section 4.6 of the Constitution) Permanent</b>
<b>Portfolio Holder(s)</b>	<b>Councillor Robert Lloyd Hughes</b>
<b>Lead Officer(s)</b>	<b>Head of Service (Planning and Public Protection) Legal Services Manager</b>
<b>Contact Officer</b>	<b>Robyn Jones (x2134)</b>
<b>Nature and reason for reporting</b> 1.1 To make changes to the Constitution, section 4.6: Planning Matters Procedure Rules, permanent following the end of a 12 month trial period.  1.2 The Executive is asked to make a recommendation to the full Council in respect of the permanent changes and the full Council is asked to take a decision to make those changes permanent.	

<b>A – Introduction / Background / Issues</b>
<p>2.1 At its meeting on 20 June 2011, the Board of Commissioners made changes to the Planning Matters Procedure Rules (the Rules) following a significant period of consultation with a range of stakeholders.</p> <p>2.2 The changes dealt with a number of issues from restrictions on the conduct of members at the Planning Committee down to clarifying planning applications from which officers should be reserved for decision to the Planning Committee.</p> <p>2.3 The changes and the reasons for them are set out in the Appendix to this report. It sets out the report that was presented to the Board of Commissioners in June 2012 and also the rationale for the changes and the reasons for their implementation.</p> <p>2.4 The review of the Rules originally arose as part of a Corporate Governance Inspection and recommendations made to the Planning Service and from their Action Plan in response.</p>

2.5 Under the Ministerial Direction then in force, changes to the Constitution were reserved to the Minister. He made the necessary changes by written notification to the Council dated 20 November 2011. The changes then took effect and the arrangements have been operational since then.

2.6 The changes were made for a trial period of 12 months and that period has now elapsed.

2.7 The matter is re-presented to members with a recommendation that the changes be made permanent. Delegated power is requested to be granted to the Head of Function (Legal and Administration) to make the necessary changes to the Constitution to implement the recommendation.

## **B - Considerations**

3.1 In addition to a number of minor and consequential amendments, there were three principal changes. These were:

3.1.1 To prevent a member of the Planning Committee from proposing, seconding or voting on an application located within their ward,

3.1.2 To require that all members of the Committee who vote on an application to have been present at all previous considerations of that application by the Committee including any official site visit, and

3.1.3 Amendments to the Rules clarifying which planning applications by members and officers and their relatives should be determined by the Committee as opposed to being decided by officers under delegated powers.

3.2 The reasons for the changes are as set out in the Appendix to this report. Officers are of the view that these remain relevant considerations.

3.3 In practice officers' are not aware that the changes to the Rules have caused any problem affecting decision-making.

3.4 The new Rules on "members' and officers' applications" have been operated without any problem. These changes are an improvement on the previous version by providing a greater degree of certainty and clarity as to whose applications now need to be reported to the Committee for a decision. Officers' are of the view that this change should be made permanent.

3.5 The two changes affecting members of the Planning Committee have also been

operated without any known problem. Any potential problem with the Committee not being quorate owing to Committee members not being able to vote because they had not been on the site visit has not arisen. As the number of site visits has reduced and with the likelihood that this will continue, then there is no reason to expect that this risk will materialize in future.

3.6 Officers believe that the reasons advanced for making the changes as set out in the recommendation to the Board of Commissioners remain sound and sensible. Making these changes permanent will:

3.6.1 Bolster clarity, transparency and certainty in decision-making by the Committee. It will help protect decision-making from adverse public perception.

3.6.2 Be of benefit to members on the Committee by providing them with safeguards as to their participation in decision-making.

3.6.3 Be of benefit to Planning Officers by providing them with certainty as to which “members’ and officers’ applications” need to be decided by the Planning Committee.

<b>C – Implications and Impacts</b>		
<b>1</b>	<b>Finance / Section 151</b>	No comments received
<b>2</b>	<b>Legal / Monitoring Officer</b>	The Committee’s legal adviser is a co-author of the report and the legal view is expressed in it
<b>3</b>	<b>Human Resources</b>	Not applicable
<b>4</b>	<b>Property Services</b> (see notes – separate document)	Not applicable
<b>5</b>	<b>Information and Communications Technology (ICT)</b>	Not applicable
<b>6</b>	<b>Equality</b> (see notes – separate document)	These changes will not have a differential impact on any of the groups protected under the Equality Act 2010. Providing clarity, transparency and certainty in decision-making will help ensure that everyone is treated fairly.
<b>7</b>	<b>Anti-poverty and Social</b> (see notes – separate document)	Not applicable

<b>C – Implications and Impacts</b>		
	document)	
<b>8</b>	<b>Communication</b> (see notes – separate document)	No comments
<b>9</b>	<b>Consultation</b> (see notes – separate document)	The original proposals were subject to significant consultation as detailed in the Appendix
<b>10</b>	<b>Economic</b>	Not applicable
<b>11</b>	<b>Environmental</b> (see notes – separate document)	Not applicable
<b>12</b>	<b>Crime and Disorder</b> (see notes – separate document)	Not applicable
<b>13</b>	<b>Outcome Agreements</b>	Not applicable

<b>CH - Summary</b>
<p>4.1 The changes to the Rules were made in November 2011 following a lengthy period of consultation with stakeholders.</p> <p>4.2 The genesis of the changes were a Corporate Governance Inspection of the Planning Service and a need to put in place a robust procedure to protect members and officers who engage in deciding planning applications and to protect the system from adverse public perception.</p> <p>4.3 The changes were made by the Minister for a 12 month trial period. That trial period has now elapsed and the Council is asked to consider making those changes permanent.</p> <p>4.4 Practical experience during the trial period has not led to evidence that the changes do not work or that they have hampered decision-making by the Planning Committee.</p>

**D - Recommendation**

5.1 The recommendations are as follows:

To the Executive:

5.2 To recommend to the full Council that the changes made to the Council's Constitution by the Minister to the Rules (for a trial period of 12 months from 20 November 2011) and as detailed in the report to the Board of Commissioners on 20 June 2011 (the Appendix to this report) are made permanent.

To the Full Council:

5.3 To make permanent the changes to the Council's Constitution made by the Minister to the Rules (for a trial period of 12 months from 20 November 2011) and as detailed in the report to the Board of Commissioners on 20 June 2011 (the Appendix to this report), and

5.4 To delegate to the Head of Function (Legal and Administration) the power to make the necessary changes to the Constitution to implement the Council's decision.

**Name of author of report: Robyn W. Jones**

**Job Title: Legal Services Manager**

**Date: 15 November 2012**

**Appendices:**

Copy of the report submitted to the meeting of the Board of Commissioners on 20 June 2011 together with its enclosures.

**Background papers**

Other reports and papers submitted to public meetings of the Council and its Committees during the process of reviewing the Rules.

## AGENDA ITEM NO.

<b>ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>REPORT TO</b>	<b>MEETING OF THE BOARD OF COMMISSIONERS</b>
<b>DATE</b>	<b>20 JUNE 2011</b>
<b>SUBJECT</b>	<b>REVIEW OF THE PLANNING MATTERS PROCEDURE RULES</b>
<b>PORTFOLIO HOLDER(S)</b>	<b>ALEX ALDRIDGE MICK GIANNASI</b>
<b>LEAD OFFICER(S)</b>	<b>INTERIM CHIEF EXECUTIVE, DIRECTOR OF LEGAL SERVICES, HEAD OF SERVICE (PLANNING AND PUBLIC PROTECTION)</b>
<b>CONTACT OFFICER</b>	<b>Robyn Jones (tel: 01248 752134)</b>

**1. Please confirm the nature of the report by clicking one of the following boxes:**

For information.....

Operational.....

Strategic.....

**2. Reason/s why a decision required by the Commissioners**

To obtain a recommendation from the Commissioners. Any changes to the Rules will be a change to the Constitution to be made by the Minister. The matter was reported to full Council for comment.

**3. Report summary**

Changes to the Planning Matters Procedure Rules following a Corporate Governance Inspection (CGI) Review into planning matters by WAO and PwC in 2009. The review was part of the Planning Department's Improvement Plan 2010-11.

#### 4. Recommendation/s and reasons

##### **Recommendation:**

That the Commissioners make a recommendation on proposed changes to the Rules:

- (i) as to which applications by members, officers and their relatives should be referred to the Committee for a decision and not be dealt with by officers under delegation,
- (ii) that members of the Planning Committee will only be allowed to participate in discussion on applications if they have been present at all previous substantive considerations of that application by the Committee. This includes being present at any official site visit. Substantive consideration means where there has been a presentation by the officer on the application or any discussion by the Committee on the merits of the application
- (iii) that members on the Planning Committee who represent the ward where a development site is located may not vote or make or second a recommendation on such an application

##### **Reasons:**

To address recommendations made by the WAO and PwC in the 2009 CGI on Planning as incorporated into the Planning Improvement Plan 2010-11.

Changes to tighten and clarify the wording of the Rules and accord with best practice.

To address possible concerns regarding the perceived involvement in decision-making by the local councillor as a member of the Planning Committee.

To ensure that decision-makers are aware of all previous considerations on an application before a decision is made.

#### 5. Other options and reason/s for rejection

The option of not making the changes rejected as it would mean failing to address recommendations made in the 2009 CGI.

## 6. Consultation

- 6.1 Finance/Section 151.....  yes..... no
- 6.2 Legal/Monitoring Officer.....  yes..... no
- 6.3 Human Resources.....  yes..... no..... n/a
- 6.4 Property Services.....  yes..... no..... n/a
- 6.5 Communications Unit.....  yes..... no
- 6.6 Others consulted (including members):

Standards Committee (14.12.10), Planning Committee (02.02.11),  
All Members, Group Leaders and other Welsh Authorities.

## 7. Any Policy Framework issues

None

## 8. Environmental issues

Does the item/matter have regard to:

1. Wildlife (biodiversity) under Section 40  
of the Natural Environment and Rural .....  yes..... no..... n/a  
Communities (NERC) Act 2006\*
2. Anglesey's Area of Outstanding Natural  
Beauty (AONB) under Section 85 of the .....  yes..... no..... n/a  
Countryside and Rights of Way Act 2000\*\*

(\* Ecological and Environmental Advisor can advise: ext. 2470)

(\*\* Countryside and AONB Officer can advise: ext. 2429)

[Notes](#)

## 9. Background papers

The Planning Decision-Making Process Improvement Plan 2010-11



<b>ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>MEETING:</b>	<b>COMMISSIONERS BOARD MEETING</b>
<b>DATE:</b>	<b>20 JUNE 2011</b>
<b>TITLE OF REPORT:</b>	<b>REVIEW OF THE PLANNING MATTERS PROCEDURE RULES</b>
<b>REPORT BY:</b>	<b>CHIEF EXECUTIVE DIRECTOR OF LEGAL SERVICES / MONITORING OFFICER AND HEAD OF SERVICE (PLANNING AND PUBLIC PROTECTION)</b>
<b>PURPOSE OF REPORT:</b>	<b>TO CONSIDER ADOPTION OF THE PROPOSED CHANGES TO THE RULES</b>

## **1. Introduction**

- 1.1 At its meeting on 26 April the Commissioners considered the adoption of procedural rules relating to the involvement of Councillors in the decision making process.
- 1.2 The Commissioners considered the outcome of consultation within the Council, the context of the perceptions relating to planning matters, and the unique position relating to the Ministers' intervention in Anglesey to address corporate governance in order to restore public confidence in the decision making processes. The Commissioners also took account of the Wales Audit Office and PwC (external auditors) views that the Council should review its planning processes. The statutory officer recommendations to the Commissioners was accepted as being reasonable in all the circumstances and Commissioners took the view that they wished to remove any perception of a failure in dealing with conflicts of interest at both Councillor and Officer level whilst accepting that the perception is not always reality.
- 1.3 At its meeting on 12 May, full Council received the report of the 26 April and resolved that this matter be referred back to the Commissioners with a recommendation that they be asked to reconsider the matter bearing in mind the changes that have already taken place within the Planning and Orders Committee of this Authority.
- 1.4 This report addresses the process for Commissioner to consider the Council's request and to arrive at a decision on the matter of Planning Matters Procedure Rules ("the Rules"), which are currently set out at section 4.6 of the Constitution.
- 1.5 The previous recommendation to the Commissioners was to recommend approval of the changes to the Rules for a 12 month trial period, that the matter be referred to full Council for comment and then submitted to the Minister for changes to the Constitution. Therefore it is incumbent on Commissioners to take all these matters into account and decide on the matter

## **2. WAO / PwC CGI Report 2009**

- 2.1 The proposals arise from various Audit recommendations and specifically the 2009 Corporate Governance Inspection on planning undertaken by WAO and PwC (December 2009).
- 2.2 The WAO and PwC undertook the specific Corporate Governance Inspection of planning matters in 2009 (as part of the wider CGI) and as a result of some responses to public consultation as part of the wider CGI. The WAO / PwC report suggested a review of the Rules to help establish clear and well-communicated roles and expectations of members and officers involved in the planning process, including the role of committee members and the balance between their role as ward member and as committee member.

### **3. The Review**

- 3.1 The task of reviewing the Rules was incorporated into the Planning Service's "Planning Decision-Making Process Improvement Plan 2010-11" and the specific task was undertaken by the Legal Services Manager who also acts as the Council's planning lawyer.
- 3.2 The Legal Services Manager reported back to the Head of Service (Planning and Public Protection) in November 2010. The result of the review by way of suggested amendments to the Rules is set out in the Appendix to this report. There are three major changes: two involve restrictions on members of the Committee and the third clarifies the rules as to which applications by members and officer need to go to Committee to be determined.

### **4. Consultation**

- 4.1 A significant and wide-ranging consultation was undertaken on the proposed changes.
- 4.2 Standards Committee. The Standards Committee was consulted on the proposed changes at its meeting on 14 December 2010. Their response has already been publicized in previous reports.
- 4.3 Elected Members. All elected members were consulted on the proposed changes with the closing date for responses being 31 January 2011. Three responses were received; two supported all the changes and the other supported two of the changes and asked a question about the third.
- 4.4 The Planning Committee. The Planning Committee were consulted on 2 February 2011 and resolved to note the report but did not express a view as the matter was open to each member to consider at full Council.
- 4.5 The then Executive. The matter was reported to the then Executive for consultation as any changes to the Rules would be a change to the Constitution. At its meeting on 23 February the then Executive resolved to support the three major changes.
- 4.6 Group Leaders. Consultation was made with the Group Leaders at their meeting held on 2 March 2011.

- 4.7 Full Council. The matter was reported to full Council at its meeting on 8 March 2011. Full Council resolved to defer the matter to its next ordinary meeting and, in the meantime, to request officers to enquire what is the practice at other Welsh local authorities. This has been done and is reported on below.
- 4.8 Other Councils. The two major changes involving members of the Committee were consulted on with both the Monitoring Officers and with the Chief Planning Officers (or the equivalent officers) of the other 21 principal councils in Wales.
- 4.8.1 Of the replies received, only one other Welsh principal council (Carmarthenshire) restricts participation at Planning Committee to only those members who have been on the official site visit for that application. However, and as would be expected, there is a variety of practice across Wales. Some Councils have Site Visit Sub-Committees, others have Site Visit Panels and some have Site Visits Sub-Committees or Panels who have delegated powers to actually decide applications.
- 4.8.1 Of the replies received, only Gwynedd Council has a rule which prevents a local member who is also a member of the Planning Committee from voting on an application in his ward.
- 4.9 Recent Local Government Association (LGA) advice stresses the importance of the involvement of ward Councillors in the development process provided adequate safeguards are in place to avoid accusations of pre-determination.

The changes that have been decided on by the Commissioners in Anglesey will preserve the right of local members to still speak at the Committee and therefore the involvement of Councillors is preserved with the safeguards to prevent any perception of pre-determination also provided.

Whilst Commissioners were aware that no other local authority in Wales apart from Carmarthenshire and Gwynedd practice this arrangement the Commissioners took the view that given the current circumstances applying to Anglesey and that a similar system did work in Carmarthenshire and Gwynedd the statutory advice was reasonable in terms of giving protection to Councillors in Anglesey from any possible public perception of conflicts of interest

## **5. The Proposals on Local Members and Participation at Planning Committee**

- 5.1 It is proposed that members on the Planning Committee who represent the ward where a development site is located may not vote or make or second a recommendation on such an application (paragraph 4.6.4.3.3 of the Rules).
- 5.1.1 At present there are no such restrictions on “the local member” who is also a member of the Committee. The local member is at present free to speak, to make or second a recommendation and to vote on such an application. This may give rise to the **public perception** (but not necessarily the reality) that the local member (when speaking, making or seconding a recommendation and / or voting) may be acting as an advocate for or against the application by virtue of them being the local member. That would not be the proper role

for a member of the Committee in discharging a quasi-administrative function. **The proposed change removes the risk of that perception.**

**5.1.2 The change does not affect the local member's right to speak at the Committee in his capacity as the local member and the change may help improve public perception of the planning system.**

5.2 It is proposed that members of the Planning Committee will only be allowed to participate in discussion on applications if they have been present at all previous substantive considerations of that application by the Committee. This includes being present at any official site visit (paragraphs 4.6.5.1 and 4.6.19.1.1(vi) of the Rules). Substantive consideration means where there has been a presentation by the officer on the application or any discussion by the Committee on the merits of the application.

5.2.1 At present there are no rules which require that a member of the Committee must have been present at all previous considerations of an application before they can participate at the next consideration. This is the case both as regards official site visits which have been undertaken and also generally.

**5.2.2 Previous substantive considerations and the official site visit in particular inform subsequent considerations and members should have had an opportunity to hear and see all the deliberations on an application before being involved in deciding that application. This change may help improve public perception of the planning system.**

## **6. Conclusions**

6.1 The following matters are submitted to Commissioners as being relevant in considering the recommendations:

6.1.1 Planning History. It is recognised that Ynys Môn's planning history points to the need for ensuring that any accusations of impropriety are avoided.

6.1.2 Public Perception. The Commissioners will want to consider the Council's current circumstances and the need to tackle the poor public perception (but not necessarily reality) that surrounding the planning system. The Commissioners will want to ensure that the Council has the best and most robust safeguards in place whilst accepting that this is in order to address concerns about public perceptions and not reality. The recent acceptance of the Council at its EGM in relation to the Ombudsman findings on planning maladministration in relation to officer errors was a positive step forward in addressing public perception

6.1.3 Other Local Authorities - WAO / PwC Report. Whilst other Councils may not adopt these procedural rules, the WAO and PwC had specific cause to undertake a specific review of planning matters at this Council as part of the 2009 CGI and recommended that the Rules be reviewed with the aim of clarifying the roles of Committee members who were both local member and member of the Committee.

- 6.1.4 Planning Service's Improvement Plan. The WAO / PwC recommendations were incorporated into the Planning Service's "Improvement Plan" which required a review of the rules not confined to what was thought good practice at other Councils.
- 6.1.5 Addressing Perceived Weaknesses. The two proposed changes involving members of the Committee address what may be perceived weaknesses in the functioning of the Planning Committee. These are: non-attendance at earlier deliberations of an application including official site visits and the risk that a local member who sits on the Committee may be seen to act and, likewise, recommend and vote as an advocate for or against a proposal in their ward.
- 6.1.6 Boosting Public Confidence. The changes are aimed to boost public confidence in Anglesey and the public domain generally and contribute to the progress that is being made in corporate governance matters generally within the Council through establishing a planning process that maintains the right of ward members to contribute to the debate without any perception of a conflict of interest.
- 6.1.7 Consultation. The proposals have been the subject of extensive consultation within the Council since the start of the year.
- 6.1.8 Trial Period. The proposed changes are to be for a 12 month trial period. This will allow an opportunity to review the affect of the changes.
- 6.1.9 Protecting Members. The changes provide a measure of protection to members from complaints or challenges about the Committee member – ward member issue. Members will retain the right to speak as ward member at Committee.
- 6.1.11 There is overwhelming support for clarification of the Rules about member/officer applications being referred to Committee.

Previous Decision. The Commissioners decided to support the changes at their meeting on 26 April.

## **7. Recommendation**

- 7.1 That the Commissioners reaffirm its decision to support a 12 month trial period for:
- 7.1.1 Changes to clarify the Rules on member/officer applications and those of their relatives and close friends which should be reported to the Planning Committee for decision,
- 7.1.2 Changes to the Rules that:
- 7.1.2.1 Members on the Planning Committee should not be allowed to make or second a recommendation or vote on an application which is located in their ward, and

7.1.2.2 Other than speaking as local councillor, members of the Planning Committee should not be allowed to participate on an application at Committee if they have not been present when that application was previously substantively considered by the Committee. This includes any official site visit that has occurred.

7.1.3 Other minor changes to the Rules as set out in the Appendix to this report.

7.2 All the changes to the Rules to implement the above are set out in the Schedule to this report. Further, minor changes are set out in the Rules set out in the Appendix to this report.

7.3 Under the terms of the Ministerial Direction dated 16 March 2011, the Commissioners approve the changes being submitted to the Minister with a request that he makes a decision to change the Constitution as necessary in order to implement the recommendations for a 12 month trial period.

Richard Parry Jones  
Chief Executive  
Statutory Head of Paid Service

### **Background Papers**

The Planning Decision-Making Process Improvement Plan 2010-11.

## **The Schedule**

### 1. Recommendation 5.1.1

That section 4.6.10 of the Planning Matters Procedure Rules be changed to read as follows:

#### **“4.6.10 Development Proposals Submitted by Councilors and Officers**

4.6.10.1 Proposals by serving councillors (whether or not they are councillors on the Committee), certain categories of officers and their close friends and relatives can easily give rise to suspicions of impropriety. It is vital that they are handled in a way which gives no grounds for accusations of favouritism. In these rules “relatives” encompass spouse or partner, parent, grandparent, child, grandchild, brother or sister.

4.6.10.2 Planning applications falling within the following categories will be reported to the Committee for consideration and not dealt with by officers under 'delegated powers':

- those where the applicant is a serving councillor or the relative of a serving councillor,
- those where a serving councillor acts as agent or has prepared any part of the application or plans,
- those where the applicant is a relevant officer or their relative. In this rule “relevant officer” means the Managing Director, all Corporate Directors, all Heads of Service, all officers working in the Planning Department and all other officers whose work is directly linked to the development control process (such as officers in Highways and Environmental Health who are consultees or lawyers who advice and represent the Planning Department in development control matters),
- those where the applicant is a close friend of a serving councilor or relevant officer.

In this rule “planning application” shall mean all applications required by statute to be made and which (apart from this rule) would fall to be determined under the Council’s Constitution by the Head of Planning Service. These would include applications for outline consent, reserved matters approval, listed building consent, conservation area consent, consent under Tree Preservation Orders and so forth.

4.6.10.3 Planning officers shall endeavour to identify and highlight such applications and shall accordingly inform the Head of the Planning Service and the Authority's Monitoring Officer. Serving councillors who make applications, who act as agents or who prepare plans or whose relatives make applications, should play no part in the decision-making process for that proposal.

4.6.10.4 The Monitoring Officer should confirm in the Committee report that such application has been processed normally and must, therefore, be given the opportunity to review the file.

4.6.10.5 Officers involved in the development control process must not prepare plans or act as agent for any person or body (including their relatives) pursuing a planning matter with the Council. If they submit a proposal on their own behalf, they should take no part in the processing of that application.”

2. Recommendation 5.1.2.1

That paragraph 4.6.4.3.3 of the Rules be changed so as to read as follows:

“4.6.4.3.3 If the local councillor is a member of the Committee then, the provision of rule 4.6.4.3.2 above will also apply to them and he/she may address the Committee but will **not** have the right either to propose or second any recommendation or to vote on the application. But he/she may should they so wish, refer the person seeking to lobby them to a councillor who represents an adjoining ward and who is not on the Committee and, for the purpose of these rules, such a councillor will be regarded as a local councillor.”

3. Recommendation 5.1.2.2

That paragraph 4.6.5.1 of the Rules be changed so as to read as follows:

“4.6.5.1.1 When attending meetings of the Committee, councillors who are not members of the Committee should sit quite separately from councillors who are on the Committee - whether or not they intend addressing the Committee. They should not communicate with those councillors who are on the Committee and who will be making decisions. The objective of this rule is to emphasise the quasi-judicial nature of the Committee’s proceedings when considering planning applications.

4.6.5.1.2 Other than speaking as local councillor, members of the Committee may only participate on an application where they have been present at all previous substantive considerations of that application by the Committee. Substantive consideration means where there has been a presentation by the officer on the application, any discussion by the Committee on the merits of the application or an official site visit of the application site.”

That a new rule 4.6.19.1.1(vi) be added to the Rules to read as follows:

“(vi) if the Committee are of a view that the site needs to be visited and seen before the application can be determined, then only those members who attended the official site visit may participate in and vote on the application when it is further considered by the Committee.”



## APPENDIX

## **4.6 Planning Matters Procedure Rules**

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#### 4.6.1 Introduction

4.6.1.1 Determining planning applications is an important duty undertaken by the County Council. These rules set out how the Council as local planning authority will deal with planning applications. The rules apply to ~~both~~ councillors and officers as the context requires.

4.6.1.2 Most applications will be determined by planning officers acting on behalf of the local planning authority and the ~~Council's~~ Planning and Orders Committee (the Committee) will determine all other applications. The rules as to whether officers or the Committee will determine applications are contained in Part 3 of this Constitution at paragraph ... – Of those instances where the decision may be made by the Committee, the potentially most significant is where which includes a provision that the local councillor (that is the councillor or in whose ward the proposed development site is located) may require that ~~the~~ application (which ~~would~~ might otherwise be decided by officers) should be submitted to the ~~Planning and Orders~~ Committee for determination. In these cases, provided that the local councillor must 'call-in' such application indicates this in writing addressed to the ~~Chief Planning Officer~~ Head of Development Control within 21 days of the date of the ~~notification~~ letter notifying him / her of the application. In the case of those applications classified as 'fast-track' economic ones, the period within which to refer it to the Committee will be only 14 days. The local councillor may withdraw their call-in at any time before the Committee Agenda is published by notifying to the case officer and confirming the withdrawal in writing.

4.6.1.3 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is also highly contentious because ~~the~~its decisions affect the ~~daily~~ lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking a decision) and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision making.

4.6.1.4 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, ~~particularly~~ the financial value of landholdings and the quality of the ~~environment~~ ir settings. It is important, therefore, that local planning authorities should make planning decisions affecting these interests, openly, impartially, with sound judgement and for justifiable reasons. The process should leave no justifiable grounds for suggesting ~~with any justification~~ that a decision has been partial, biased or not well-founded ~~in any way~~.

#### 4.6.2 Decision Making on Planning Applications

4.6.2.1 Decisions on planning applications are sometimes referred to as regulatory or quasi-judicial decisions and this means that those making such decisions must

4.6.2.1.1 take into account all relevant planning considerations

4.6.2.1.2 ignore irrelevant or non planning considerations

4.6.2.1.3 act impartially, fairly and not take into account any political considerations

4.6.2.2 Planning law requires local planning authorities to determine planning applications in accordance with the Statutory Development Plan unless material planning considerations indicate otherwise. The emphasis in determining applications is upon a 'plan-led' system.

4.6.2.3 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process and opposing views are often strongly held by those involved.

4.6.2.4 Those persons determining planning applications have a duty to take into account representations made to the local planning authority as a result of consultation with interested bodies or as a result of public notice or neighbour notification. In doing so it is necessary to decide which representations are material to the decision to be made, and, if so, what weight to attach to them. This conclusion should not be reached by the ~~Planning and Orders~~ Committee until all the facts have been presented in the officer's report to the Committee.

4.6.2.5 Councilors must not give a commitment in relation to any planning matter prior to its consideration at Committee. It is recognised, however, that councilors will from time to time be approached individually by applicants, agents and objectors in relation to planning proposals. These rules are intended to assist councilors in dealing with these approaches and is designed to ensure that the integrity of the decision making process is preserved.

4.6.2.6 Failure to follow these rules without good reason could be taken into account in investigations into possible maladministration and any investigation regarding the conduct of councilors and / or officers.

### 4.6.3 Pre-determination Discussions by Officers with Applicants

4.6.3.1 In any discussions on planning issues, it will always be made clear at the outset, ~~that such discussions~~that such discussion:

- ~~will not bind the local planning authority to make a particular decision, and~~
- ~~that any views expressed are based on the officers' provisional professional judgement but do not commit the local planning authority to any particular decision.~~

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4.6.3.2 Any advice given will:

- ~~be consistent and based upon the Development Plan and other material considerations.~~
- ~~Furthermore any advice given shall be impartial and,~~ the best that the officer can give in the circumstances, and
- ~~try to shall~~ highlight any apparent problems.

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4.6.3.3 No Council~~or shall~~ take part in the officers' discussions with applicants at any stage prior to determination of the application. Where this does occur, a complaint may be made against the council~~or~~ to the Council's Monitoring Officer.

### 4.6.4 Lobbying of and by Council~~ors~~

#### 4.6.4.1 Council~~ors~~ who are Members of the ~~Planning and Orders~~ Committee

4.6.4.1.1 Council~~ors~~ who are members of the ~~Planning and Orders~~ Committee are likely to be approached by applicants, objectors and others interested in the outcome of planning applications. Because of the quasi-judicial or regulatory nature of planning decisions, council~~ors~~ on the Committee should not allow themselves to be lobbied by anyone - whether for or against an application. If approached they should inform the person seeking to lobby them that if they discuss the application with the ~~ate~~ person seeking to lobby them, this ~~may will~~ disqualify them from taking part in the decision on the application. Instead potential lobbyists should be advised to contact either their local council~~or~~ (see 4.6.4.3 below) or an appropriate officer within the Planning Department.

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4.6.4.1.2 Council~~ors~~ who are on the ~~Planning and Orders~~ Committee should not organise local support or opposition to a planning proposal if they later wish to take part in the ~~discussion~~decision on the application.

4.6.4.1.3 In taking into account the need to make decisions impartially, council~~ors~~ on the ~~Planning and Orders~~ Committee should not favour or appear to favour any person, company, group or locality and should not declare which way they intend to vote in advance of the meeting. To do so without all relevant information and views would be unfair and prejudicial. If the council~~or~~ feels that the public would believe he/she had come to a conclusive view on the planning matter or application before the meeting, or that he/she has been lobbied by an interested person then he/she should not take part in the debate, nor vote on the issue - this is without prejudice to his/her right to address the committee as provided for in section 4.6.5.2 of these rules~~notes~~.

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4.6.4.1.4 Where the Monitoring Officer or his/her representative believes that a councillor has prejudiced his/her position by expressing a conclusive view on an application before its determination by the Committee, the Monitoring Officer or his/her representative will advise the councillor that it would be inappropriate for him/her to take part in the debate, or vote on the application. The final decision, however, rests with the councillor - subject to any external scrutiny.

#### 4.6.4.2 Councillors who are not members of the ~~Planning and Orders~~ Committee

Councillors who are not members of the ~~Planning and Orders~~ Committee should not be lobbied, whether by applicants, objectors or anyone else interested in the outcome of a planning application. If approached such councillors should inform the person seeking to lobby them that they should either contact their local councillor (see 4.6.4.3 below) or an appropriate officer in the Planning Department. If such a councillor is lobbied he/she should not lobby councillors who are members of the ~~Planning and Orders~~ Committee and he/she will not be entitled to speak at meetings of the ~~e~~Committees.

#### 4.6.4.3 Local Councillors

4.6.4.3.1 There are ~~differences~~exceptions to the lobbying to the rules set out in 4.6.4.1.1 and 4.6.4.2 in relation to the 'local councillor' i.e. the councillor in whose ward the proposed development is located.

4.6.4.3.2 If the local councillor is not a member of the ~~Planning and Orders~~ Committee then he/she can legitimately be lobbied by an applicant, objector or anyone else interested in the outcome of a planning application. If such councillor is lobbied then, provided that he/she does not have an interest to declare in accordance with the Council's Code of Conduct ~~for Councillors~~for Councillors, he/she will be entitled to make representations to and address the ~~Planning and Orders~~ Committee. However he/she must not themselves lobby, whether directly or indirectly, councillors who are on the ~~Planning and Orders~~ Committee.

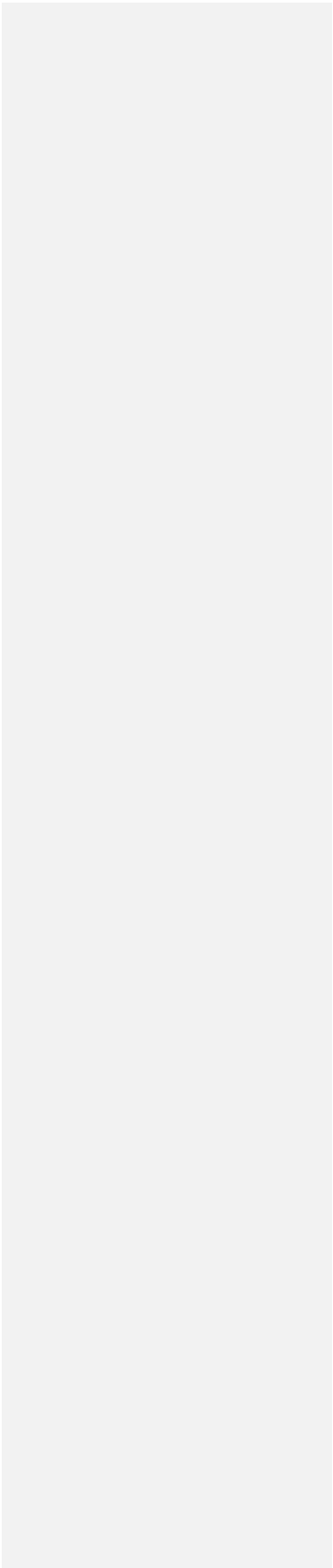
4.6.4.3.3 If the local councillor is a member of the ~~Planning and Orders~~ Committee then ~~he/she has a choice, i.e., the provision of rule 4.6.4.3.2 above will also apply to them and he/she may address the Committee but will not have the right either to propose or second any recommendation or to vote on the application. But he/she may should they so wish, refer the person seeking to lobby them to a councillor who represents an adjoining ward and who is not on the Committee and, for the purpose of these rules, such a councillor will be regarded as a local councillor.~~

#### **either**

~~(i) to inform the person seeking to lobby them that if they discuss the application with the person seeking to lobby them, this will disqualify them from taking part in the decision on the application, although they will be entitled to address the Planning and Orders Committee in the same way and subject to the same conditions as set out in 4.6.4.3.2, the provision of rule 4.6.4.3.2 above will also apply to them and he/she may address the Committee but will not have the right either to propose or second any recommendation or to vote on the application.~~

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~~(ii) he/she may address the Committee but will not have the right either to propose or second any recommendation or to vote on the application but they may refer the person seeking to lobby them to a councillor who represents an adjoining ward and who is not on the Planning and Orders Committee and, for the purpose of these rules, such a councillor will be regarded as a local councillor.~~

4.6.4.3.4 Local councillors, ~~as referred to in these rules,~~ may not become involved in making any representations at meetings of the ~~Planning and Orders~~ Committee or participating in decision making on planning applications if they have an interest to declare in accordance with the Council's Code of Conduct for Councillors. ~~This is so-~~ regardless as to whether or not they are on the ~~Planning and Orders~~ Committee. If a local councillor is in this position he / she should refer any potential lobbyists to a councillor who represents an adjoining ward and who is not on the ~~Planning and Orders~~ Committee and, for the purpose of these rules, such a councillor will be regarded as a local councillor.

4.6.4.4 Where letters of 'neighbour notification' of a planning application are sent to properties not in the same ward as the application site, then the councillor who represents those properties may also speak as a local councillor at the ~~e~~Committee. This rule only gives the right to speak at the Committee and confers no other rights on that councillor as a local councillor.

#### 4.6.5 Seating and Speaking Arrangements at Meetings of the ~~Planning and Orders~~ Committees

4.6.5.1.1 When attending meetings of the ~~Planning and Orders~~ Committee, councillors who are not members of the Committee should sit quite separately from councillors who are on the Committee - whether or not they intend addressing the Committee. ~~They - and~~ should not communicate with those councillors who are on the Committee and who will be making decisions. The objective of this rule is to emphasise the quasi-judicial nature of the Committee's proceedings when considering planning applications.

4.6.5.1.2 Other than speaking as local councillor, members of the Committee may only participate on an application where they have been present at all previous substantive considerations of that application by the Committee. Substantive consideration means where there has been a presentation by the officer on the application, any discussion by the Committee on the merits of the application or an official site visit of the application site.

4.6.5.2 The right to address the Committee shall ~~also~~ apply to any member of the Planning and Orders Committee (including the local councillor) who:

- has been lobbied, or
- who may have already expressed a conclusive view on an application, or
- who has spoken on the application at Town or Community Council level or the local ~~councillor~~councilor, or
- is the councillor who represents an adjoining ward as referred to in 4.6.4.3.3(ii).

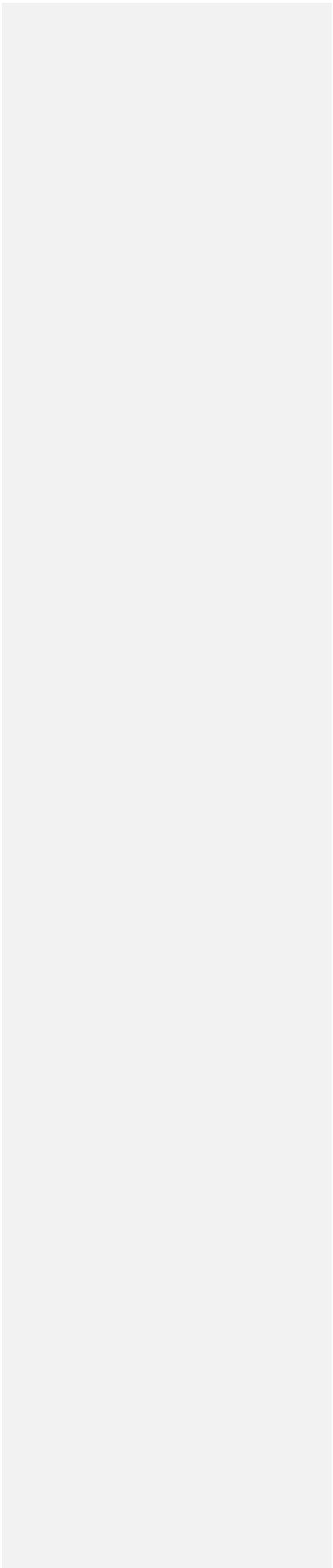
–However if this right is exercised, the councillor on the ~~Planning and Orders~~ Committee should comply with paragraph 4.6.5.1 above when consideration is given to the particular matter and may not participate in the decision making and should declare at the meeting why he/she is not participating in the decision.

4.6.5.3 The Committee Chairperson will conduct business at the meeting in accordance with the attached Appendix.



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#### 4.6.6 Public Meetings Relating to Development Proposals

4.6.6.1 Officers involved in the processing or determination of planning matters should not attend public meetings in connection with development proposals or submitted planning applications, unless those meetings have been arranged by or with the express agreement of the Authority. To do so could lead to allegations of bias or prejudice in relation to a particular point of view. If put in such a position of attending meetings arranged by, or with the consent of, the Authority, or by accident, then officers should take great care to maintain impartiality, concentrate on providing factual information, listen to comments and avoid giving views on the merits or otherwise of the proposal.

4.6.6.2 Similarly, councillors involved in the determination of planning applications should take great care to maintain impartiality when attending public meetings in relation to planning matters. At such meetings no view on the merits or otherwise of a proposal should be given.

#### 4.6.7 Councillors who are Members of the ~~Planning and Orders~~ Committee and who are also Town or Community Councillors

These councillors should make a choice in relation to every planning application which may be considered by a Town or Community Council (or a committee or subcommittee of the same). The choices are either:

4.6.7.1 Participate in the discussion at Town or Community Council level and then, if they wish, speak at the ~~Planning and Orders~~ Committee as provided for in Section 5.4 of these Rules but not otherwise take part in the deliberations of the ~~e~~Committee or vote on the application, or

4.6.7.2 Take no part in discussions at Town or Community Council level (and preferably not be in the room when the matter is discussed) and then participate fully at the ~~Planning and Orders~~ Committee.

4.6.7.3 **NB:** those councillors who sit on the ~~Planning and Orders~~ Committee but who are not members of the Town or Community Council have, like any other member of the public, the right to attend public meetings of that Council. In these cases those councillors should only observe proceedings at the Town or Community Council and not take part in them.

#### 4.6.8 Correspondence Received by Councilors

Should councilors receive directly any correspondence from persons interested in the outcome of a planning application ~~directly~~ they shall ensure that a copy is forwarded to the ~~Development~~Planning Control Section. The ~~S~~ection will then:

4.6.8.1 if time permits, send a copy to the applicant or his/her agent so as to allow him/her an opportunity to respond.

4.6.8.2 place a copy of all representations on the Planning file.

4.6.8.3 if time permits ensure that the report to Committee refers to the correspondence received.

#### 4.6.9 Registration and Declaration of Interests

The Law and the Council's Code of Conduct for both councilors and officers in relation to these matters is of particular relevance applicable to those dealing with planning applications and must be followed at all times.

#### 4.6.10 Development Proposals Submitted by Councilors and Officers

4.6.10.1 Proposals by serving councilors (whether or not they are councilors on the ~~Planning and Orders~~ Committee), and certain categories of officers and their close friends and relatives can easily give rise to suspicions of impropriety. It is vital that they are handled in a way which gives no grounds for accusations of favouritism. In these rules "relatives" encompass spouse or partner, parent, grandparent, child, grandchild, brother or sister.

4.6.10.2 Planning applications falling within the following categories will be reported to the Committee for consideration and not dealt with by officers under 'delegated powers':

- those where the applicant is a ~~S~~erving councilor or the relative of a serving councilor,
- those where a serving councilor acts as agent or has prepared any part of the application or plans,
- those where the applicant is a relevant officer or their relative. In this rule "relevant officer" means the Managing Director, all Corporate Directors, all Heads of Service, all officers working in the Planning Department and all other officers whose work is directly linked to the development control process (such as officers in Highways and Environmental Health who are consultees or lawyers who advice and represent the Planning Department in development control matters),
- those where the applicant is a close friend of a serving councilor or relevant officer.

In this rule "planning application" shall mean all applications required by statute to be made and which (apart from this rule) would fall to be determined under the Council's Constitution by the Head of Planning Service. These would include applications for outline consent, reserved matters approval, listed building consent, conservation area consent, consent under Tree Preservation Orders and so forth... who prepare plans or generally act as agents for people pursuing a planning matter should play no part in the decision-making process for that proposal. Similarly, if they submit a proposal themselves, they should take no part in the processing of that application or endeavour to influence the final decision on the application.

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| 4.6.10.3 ~~Planning~~The officers shall endeavour to identify and highlight such applications and shall accordingly inform the Head of the Planning Service and the Authority's Monitoring Officer. Serving councillors who make applications, who act as agents or who prepare plans or whose relatives make applications, should play no part in the decision-making process for that proposal.

| 4.6.10.4 ~~Those proposals will be reported to the Planning and Orders Committee for consideration and not dealt with by officers under 'delegated powers'.~~ The Monitoring Officer should confirm in the ~~Committee~~ report that ~~such~~the application has been processed normally and ~~therefore~~ must, therefore, be given the opportunity to review the file.

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4.6.10.5 Officers involved in ~~any way in the~~ development control ~~planning~~ process must not prepare plans or act as agent for any person or body (including ~~members of their relatives own family~~) pursuing a planning matter with the Council. If they submit a proposal on their own behalf, they should take no part in the processing of that application. ~~Such proposals will be reported to the Planning and Orders Committee for consideration and will not be dealt with by officers under "delegated powers".~~

~~4.6.10.6 Officers not involved in the planning process must not prepare plans or act as agent for any person or body other than themselves or close members of their family (i.e., spouses, parents, grand parents, children, brothers or sisters) and in any of these cases the Head of the Planning Service should be made aware of their involvement so that the matter can be referred to the Planning and orders committee and not be dealt with by officers under "delegated powers".~~

#### **4.6.11 Officers' Report to the Planning and Orders Committee**

4.6.11.1 All planning applications reported to the Planning and Orders Committee will have a full written report including a reasoned assessment of the proposal and a justified Recommendation.

4.6.11.2 Any new matters which have arisen between the preparation of the report and the date of the Committee will be reported orally and references to this will be included in the minutes.

4.6.11.3 Every planning application file will contain an accurate account of events throughout its life, particularly the outcome of meetings or significant telephone conversations.

4.6.11.4 The same principles of good record keeping will also be observed in relation to enforcement matters. Monitoring of record keeping will be undertaken on a continuous basis by managers within the DevelopmentPlanning Control Section.

#### **4.6.12 Decisions Contrary to Officer Recommendation**

4.6.12.1 Where the Planning and Orders Committee are mindful to either approve or refuse a proposed development contrary to an Officer recommendation, the item shall be deferred until the following meeting so as to allow the officers to report further on the matter. The Committee must set out the reasons for wishing to decide against the officer recommendation. Committee members should adhere to these Rules when making planning decisions and take policy guidance from planning officers into due regard and only vote against their recommendations where genuine and material planning reasons can be identified. A detailed minute of the Committee's reason(s) shall be made and a copy placed on the application file. Where deciding the matter contrary to the recommendation may risk costs on appeal the Committee will take a recorded vote when deciding the application irrespective of the requirements of paragraph 4.1.18.5 of the Constitution.

4.6.12.2 The officer's further report shall detail the reasons put forward by the members, indicate whether such reasons are, in their view, genuine and material planning reasons and discuss the land use planning issues raised.

4.6.12.3 In the case where councillors wish to add or amend conditions which are recommended by officers, the officers should be invited to draft such a condition and bring this back for approval at the subsequent meeting unless the drafting is straightforward and can be agreed at the initial meeting.

4.6.12.4 Where planning officers are unable to defend such decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute - RTPI) they shall make this point known to the Committee before the final vote is taken. In such cases the Committee shall nominate (at least) two of its members who voted contrary to the recommendation to appear at any appeal and explain the Committee's decisions and the reasons for them. These should, normally, be the proposer and seconder of the proposal which was contrary to the officer's recommendation.

#### **4.6.13 Appeals Against Council Decisions**

4.6.13.1 Officers will organize and generally appear as witnesses at planning appeals and other proceedings on behalf of the Council. In some circumstances it may be necessary to appoint consultants to appear for the Council.

4.6.13.2 In giving evidence, officers will present the best possible case on behalf of the Council whilst complying with the RTPI Code of Professional Conduct.

4.6.13.3 Where a decision contrary to officer recommendation is subject to an appeal and officers have previously made known to the Committee that they are unable to defend such decisions, officers shall report the appeal to the next Committee meeting. - Councillors will then be responsible for presenting the Council's case at the appeal.

#### **4.6.14 Conduct of Officers**

4.6.14.1 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute (RTPI) Code of Professional Conduct. All officers whether members of the Institute or not shall abide by the same principles namely they -

4.6.14.1.1 Shall act with competence, honesty and integrity;

4.6.14.1.2 Shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;

4.6.14.1.3 Shall discharge their duty to their employers, clients, colleagues and others with due care and diligence in accordance with the provisions of this Code;

4.6.14.1.4 Shall not bring the profession or the Royal Town Planning Institute into disrepute;

4.6.14.1.5 Officers shall not disclose or use to the advantage of themselves or the Authority information acquired in confidence in the course of their work;

4.6.14.1.6 Officers shall decline any discounts, gifts or commissions offered by any third parties in connection with their work as professional planners.

#### **4.6.15 Councilor / Officer relationship**

4.6.15.1 In order to engender a committed professional relationship between both officers and councilors, each shall have respect and regard for the roles both play within the decision making process.

4.6.15.2 Councilors shall respect the advice given by officers at Committee or when dealing with delegated applications and shall not place pressure on officers for a particular recommendation or decision. Any officer who considers that this has happened should deal with the matter as set-out under section 5.3.4 of this Constitution (Bullying, Intimidation and Harassment).

#### **4.6.16 Site Visits by the Planning and Orders Committee**

4.6.16.1 The protocol on site visits is attached as an Appendix to these Rules.

#### **4.6.17 Gifts and Hospitality**

4.6.17.1 Advice to councilors on registration of gifts and hospitality is contained within the Council's Code of Conduct for Members and shall be accordingly observed.

4.6.17.2 Officers during the course of carrying out their duties may be offered hospitality from people with an interest in a planning proposal. Officers should refuse offers of hospitality of any kind. If the receipt of hospitality is unavoidable officers must ensure that the absolute minimum level is accepted and declare its receipt as soon as possible to the Monitoring Officer.

## 4.6.18 Training

4.6.18.1 No member may sit on the Planning and Orders Committee unless and until they have attended Induction Training. The contents of the Induction Training shall from time to time be determined by the Head of Service (Planning and Public Protection). Updating training thereafter will be provided at least twice a year to include changes in legislation or procedure.

4.6.18.2 Councilors shall ensure that they attend a minimum 3 training events over a two year period in order to keep abreast of planning matters and thus provide a positive input into the decision making process. Attendance records will be monitored and reported to the Council. Any member of the Planning and Orders Committee who fails to attend the stated minimum number of training sessions shall be removed or suspended from the Committee by vote of the full Council at such time as when the attendance records are reported.

## Appendix

### 4.6.19 Protocol Regarding Site Visits by the Planning and Orders Committee

#### 4.6.19.1 Criteria for Site Visits

4.6.19.1.1 It is important that criteria should be set out for deciding when a site visit is justified and consider the procedure for such visits. In this respect account should be taken of the following points:-

(i) ~~(i)~~ site visits can:

- cause delay to the decision making process, ~~and~~
- possibly lead to an appeal to 'The Planning Inspectorate' on the basis of 'non-determination',
- affect the ~~s~~Service's performance in respect of its 8 week target, and
- lead to additional costs both to the ~~s~~Service and possibly to the applicant(s).

(ii) there needs to be consistency both in the way that it is decided that a site visit should take place and in the conduct of such visits. Otherwise it may leave the Authority open to the accusation that site visits are arbitrary or possibly a lobbying device.

(iii) site visits should be carefully organised and well-attended to ensure that the purpose, format and conduct are clearly established at the beginning and subsequently adhered to.

(iv) site visits should be used only where the expected benefits are substantial. The 'substantial benefit' test should apply in every case. Site visits should only be necessary if the impact of the proposed development is difficult to visualise and comprehend, i.e. where lack of clarity with the application makes visual assessment necessary

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(v) site visits may be appropriate to consider large, more complex applications.

(vi) if the Committee are of a view that the site needs to be visited and seen before the application can be determined, then only those members who attended the official site visit may participate in and vote on the application when it is further considered by the Committee.

Recommendation of site visits by officers shall be referred to within the report to Committee.

4.6.19.1.2 Site visits should **not** apply in the following cases:

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(i) to solely consider boundary or neighbour disputes.

(ii) to consider objections issued on competition grounds.

(iii) to consider objections raised on the ground of loss of property values.

(iv) to consider any other issues which are not material planning considerations.

(v) where councillors have already visited the site within the last 12 months, except in exceptional circumstances

#### **4.6.19.2 Requests for Site Visits**

In order to adopt a structured approach to site visits the following format should be adhered to:-

4.6.19.2.1 All requests for site visits must be made in writing to the Head of Development Control / Planning Control Manager by 1.00pm on the final working day prior to the Committee meeting. Any verbal request received prior to the Committee meeting must be followed up in writing before the Planning Committee commences. The reason for the 'site visit' shall be clearly stated and accordingly reported to the Planning Committee.

4.6.19.2.2 If a request is made for a 'site visit' during the Planning and Orders Committee Meeting once again the reasons for the visit shall be recorded in the minutes.

#### **4.6.19.3 Procedures at the Site Visit**

4.6.19.3.1 The applicant shall be informed that a site visit will take place but will not be allowed to be present during the visit to make any representations.

4.6.19.3.2 The primary purpose of the site visit will be for the planning officers to explain the planning issues relating to the case and for councillors to view the site.

4.6.19.3.3 There shall be no discussions at the site visit as regards the merits of the application. The site visit shall not be used as a forum for debate.

4.6.19.3.4 The Chairperson or Vice-Chairperson shall conduct and lead the site visit. If either the Chairperson or the Vice-Chairperson is absent, councillors shall vote for one of their number to act as Chairperson.

4.6.19.3.5 The Chairperson shall formally open the meeting and set out the reasons for the visit.

4.6.19.3.6 The planning officer shall be requested to outline the proposal and the main issues.

4.6.19.3.7 The councillors shall view the site, relevant buildings and surroundings as necessary.

4.6.19.3.8 Councillors shall be offered the opportunity to raise questions or seek clarification of points of fact with the planning officer and/or local councillors.

4.6.19.3.9 The local councillor in whose Ward the application site is located (if present) shall be offered the opportunity to comment on the proposal.

4.6.19.3.10 Notes shall be made of the site meeting and these shall be accordingly minuted at the following Planning Committee Meeting when the application is discussed.

#### **4.6.19.4 Regular Review of Decisions**

4.6.19.4.1 The Audit Commission's Report 'Building Quality' recommends that councillors should visit a sample of implemented planning permission to assess the quality of the decision. Such a review should improve the quality and consistency of decision-making, thereby strengthening public confidence, and assist with reviews of planning policy.

4.6.19.4.2 The review should be undertaken annually. It should include examples from a range of categories of development including applications which officers have determined under delegated powers.

#### **4.6.20 Role of the Committee Chairperson and Conduct of Business at the Committee**

##### **4.6.20.1 Election of the Chairperson / Vice-Chairperson**

4.6.20.1.1 The Chairperson shall be elected to his/her post by the councillors on Planning and Order the Committee at its first meeting following the annual Council meeting. The Ccouncillors shall at the same time elect a Vice-Chairperson for the same period of office or until such time as either or both of them step down.

4.6.20.1.2 In the absence of the Chairperson for the whole or part of the Committee meeting, the Vice-Chairperson shall be the Chairperson. If the Vice-Chairperson shall be absent, the Committee shall choose one of ~~their~~ number present to be Chairperson for that meeting or part of it until the Chairperson (or Vice-Chairperson) returns.

#### **4.6.20.2 Responsibility of the Chairperson**

The Chairperson shall have the following responsibilities:

4.6.20.2.1 to preside over meetings so that Committee business can be carried out efficiently and with regards to the rights of councilors, officers and the interest of the community as a whole.

4.6.20.2.2 to ensure that the Committee meeting is properly conducted as a forum for debate on planning matters and statutory orders only.

4.6.20.2.3 to ensure that the business of the meeting is carried out in accordance with the relevant provisions contained within the Council's Constitution.

4.6.20.2.4 to support the planning officers and the Monitoring Officer's representative in reminding members about their duty to adhere to genuine and material planning discussions in their decision making process.

#### **4.6.20.3 The Role of Officers at Committee Meetings**

4.6.20.3.1 Officers shall provide professional advice to the Chairperson in order to ensure that he/she is able to discharge the duties of the post.

4.6.20.3.2 Officers shall provide advice as follows:

(i) at pre-Committee meetings so that the Chairperson is fully briefed on issues that may arise at meetings

(ii) at any post-Committee meetings (if relevant)

(iii) during Committee meetings where questions are directed towards the Chairperson for response

(iv) during any meetings which may be convened by officers in order to discuss issues relevant to 'planning' or 'orders' issues

#### 4.6.20.4 Conduct of Committee Meetings

4.6.20.4.1 Each agenda item for discussion or for information shall be introduced by the Chairperson.

4.6.20.4.2 Once introduced the Chairperson shall ensure that the officer is allowed to report on the item. Where the public speaking procedure applies to a particular application, this shall occur before the officer reports on the item.

4.6.20.4.3 The Chairperson shall allow the local councillor to speak first after the officer's report. This is whether the local councillor wishes to speak for or against the item and whether or not they are on the Committee.

4.6.20.4.4 The Chairperson shall then allow the councillors to participate in the discussion in the order in which he/she acknowledges their wish to speak.

4.6.20.4.5 The Chairperson will ensure that all councillors shall abide by the provisions of the Council's Constitution and by the relevant provisions of these Procedure Rules.

4.6.20.4.6 All those councillors wishing to speak shall be allowed an opportunity to do so. Councillors shall refrain from making speeches and shall address the Committee on 'planning' (i.e. material planning considerations) and 'orders' matters only. The Chairperson may intervene and curtail councillors who are making repetitions or irrelevant statements.

4.6.20.4.7 Where officers need to respond to comments or questions from councillors then the Chairperson shall ensure that officers are given that opportunity.

4.6.20.4.8 If the Chairperson wishes to speak as a local councillor on an item then the provision of the Constitution shall apply equally to him/her as they apply to all councillors.

4.6.20.4.9

(i) At the conclusion of the discussion the Chairperson shall request councillors on the Committee to vote on the matter under discussion. Unless councillors disagree with the officers' recommendation they shall indicate their voting intention through the showing of hands.

(ii) Should an amendment be proposed and seconded to the officer's ~~recommendation,~~ that recommendation that amendment will be voted on first.

4.6.20.4.10 All councillors and officers shall respect the position of Chairperson. The ruling of the Chairperson on all questions of procedure at the Committee shall be final and not open to discussion. The Chairperson shall ensure that at all times regard is had by all councillors (including himself/herself) and officers to the protocol on Member/Officer relationship and that respect is shown to the advice given by officers at the Committee.

#### **4.6.21 Public Speaking**

##### **Eligibility to Speak**

4.6.21.1 The planning application concerned must be on the agenda of the Planning and Orders Committee meeting in question. In the event of an application being deferred, public speaking will not be allowed if an opportunity has already been given at a previous Committee meeting when the application has been fully considered.

4.6.21.2 Both applicants (or their agents) and objectors (or their agents) can speak and there are no other qualifying criteria other than compliance with the Council's procedure.

4.6.21.3 Normally only one person can speak for and one person against an application. Very exceptionally the Chair of the Committee may exercise his/her discretion to allow one additional speaker per 'side'. This discretion will usually only be exercised for major applications where there are significant differences of view within one 'side' (e.g. two people speaking against an application for a large supermarket where one represents the views of retailers and the other the views of nearby residents). In such cases the 'other side' will be allowed 2 speakers or twice the normal time, if they wish to use it.

4.6.21.4 Anyone requesting to speak must allow the Council to give their name and contact number to other people (of the same view) wishing to speak so that they can agree on a spokesperson, the issue to raise etc. If they cannot agree, the first person who notified the Council of his/her intention to speak will normally be chosen to speak.

4.6.21.5 Requests to speak must be made to the Administrative Officer in the Planning Department before the deadline referred to in the notification letters sent to applicants and neighbours.

##### **Time allowed to Speak**

4.6.21.6 The spokesperson will be allowed up to 3 minutes to address the Committee.

##### **Visual Aids**

4.6.21.7 The spokesperson may not circulate or display written material in the Committee meeting. Any written representations should have been submitted to the Council during the statutory publicity period and will be summarised in the Officer's report.

##### **Procedure**

4.6.21.8 The procedure for public speaking at Committee is described in the appropriate documents.