

SECTION 8 - Model Code of Practice in respect of Planning Matters: Probity in Planning

Incorporated into the Constitution in December 2007; Revised January 2018

1 Introduction

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

2 Status of the Code

- 2.1 This Planning Code is contained in the Council’s Constitution and is complimentary to the Council’s Code of Conduct for Members. Members of the Planning Committee should apply both the general Code of Conduct and the Planning Code in dealing with planning issues. This is to help Members maintain the Council’s high standards of conduct, avoid placing the Council at risk of legal challenge or a finding of maladministration by the Local Government Ombudsman, and avoid putting an individual member at risk of a complaint. A breach of this Code whilst not usually amounting to a breach of criminal law, may adversely affect the standing of the Council.
- 2.2 The purpose of this Planning Code is to:
 - Set the standards of conduct the Council requires all Members and Officers of the Council to follow when dealing with and determining planning applications including policy, development and enforcement

- Guide the way in which Members and Officers of the Council deal with all planning decisions, supporting their respective roles, and protecting their reputation for probity
 - Set the standard of conduct which other parties to the process can expect from Members and Officers when dealing with planning matters
- 2.3 This Code applies to all Members and Officers when making decisions on planning matters. It has been drawn up to:
- Support Members effective engagement in all aspects of the planning process and, in this context, to fulfil their democratic role
 - Ensure transparency and fairness in the way in which decisions are taken and that there are no grounds for suggesting that a decision has in any way been biased, partial or not well founded
- 2.4 A key purpose of this Code is to help Members of the Planning Committee make formal planning decisions that are safe from legal challenge. It is also intended to be helpful to members of other committees and to ward members in relation to various planning decisions.
- 2.5 The benefit of a detailed Code is that it sets out clear lines of engagement and expectations for each of the parties involved including members of the public and developers.

3 General Role and Conduct of Councillors and Officers

- 3.1 Members and Officers have different but complimentary roles in the planning process. Members of the Planning Committee have different roles to those of other Councillors.
- 3.2 Mutual trust, respect and understanding between Councillors and Officers are key to achieving effective local government. Officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- 3.3 Officers, in their role of advising and assisting Members in their determination of planning matters in the public interest, do not represent either the landowner/applicant or the objector. They will:
- Provide impartial professional advice
 - Seek to ensure consistency of interpretation of national, regional and the Council's planning policies
 - Complete written reports with clear written recommendations and all necessary information for the decision to be made

- 3.4 The Code of Conduct for Officers is set out in full in Part 5 of the Council's Constitution. In addition, many professional staff within the planning service will be members of the Royal Town Institute (RTPI) and are required to comply with the RTPI Code for professional conduct. Planning officers, who are not RTPI members, are also expected to conduct themselves in the same manner.
- 3.5 It is important and best practice that Members recognise that Officers are part of a management structure and any concerns that they may have about the handling of a planning matter should be raised with the department manager. In general, officers and members should adopt a team approach and should recognise and respect each other's different roles.
- 3.6 Members must not put pressure on Officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views if submitted in written form will be placed on the planning file and considered together with other material planning considerations.
- 3.7 In reaching a decision, Members must ensure they read, consider and take account of the relevant material considerations connected with the application and should not favour any person, group or locality or put themselves in a position where they may appear to do so.
- 3.8 The Members of the Planning Committee should make all decisions in an open and transparent manner and this should not be compromised in any way. Such actions as messages being passed to Members of the Planning Committee during debate should be avoided as this could give an impression of undue influence from a third party. In an emergency, any communication should go through the Democratic Services Officer.
- 3.9 In order to ensure that decisions are taken on planning grounds and are sound, it is **imperative** that all Members of the Planning Committee read the reports prepared by Officers and familiarise themselves with all relevant National Planning Guidance (including the National Planning Policy Framework), Development Plan policies and other material considerations well in advance of the Planning Committee itself. It is important that Members be **seen** to be meeting this provision of the Code. Information on specific applications will be available on the Council's website via "Public Access".
- 3.10 Councillors who are Members of the Planning Committee are responsible for the determination of planning applications for major and controversial applications. The Planning Committee must assess proposals against national and local planning policy, are restricted to planning considerations, and **cannot** seek to control non-planning issues or duplicate other legislative controls.

- 3.11 Members of the Planning Committee must always approach their decision making with an **open mind**; have regard to **all** material planning considerations and be prepared to change their views if persuaded that they should. Members should remember that planning law requires determination to be based on **planning consideration** and not on any political or other reasons.
- 3.12 If Members do anything, which would show they had closed minds and had predetermined an application, then they should **not take part**. Showing a predisposition towards a particular course of action does not in itself demonstrate bias and prevent Members from taking part in the decision making, however it may well encourage legal challenge.
- 3.13 Members should **not** vote or take part in the meeting's discussion on an item unless they have been present to hear the entire debate, including the officer's introduction to the item.
- 3.14 Members should ensure that if they are proposing, seconding or supporting a decision contrary to an officer's recommendations or the development plan, they **clearly identify** and understand the planning reason leading to this decision. The reason/s must be given **prior** to the vote and be recorded. Members must be aware that the resulting decision may have to be justified by evidence at a planning appeal in the event of challenge.

4 Interests: Registration and Disclosure

- 4.1 The Law and the Councillor's Code of Conduct set out rules and guidance on declaring their interests. Councillors **must** follow these rules and guidance and review their own situation regularly.
- 4.2 If a Member has a Code of Conduct interest in any matter, the existence and nature of the interest **must be disclosed** at any relevant meeting. This is best done at the beginning of the meeting.
- 4.3 The Members' Code of Conduct states that Members must, within 28 days of taking office as a member or co-opted member, notify the authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is that of the Member, their spouse or civil partner, or is the pecuniary interest of somebody with whom a Member is living with as a husband or wife, or as if they were civil partners.
- 4.4 If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.

- 4.5 If a Member does have a pecuniary interest, unless granted a dispensation, the Member **may not** participate in making the decision, either formally or informally. The Member should also avoid giving **any** impression of participation, as it is important to maintain public confidence in the impartiality of Councillors in decision-making. Taking part whilst having a pecuniary interest **is** a criminal offence.
- 4.6 In relation to planning decisions, any interest that does not amount to a pecuniary interest, but which would have a significant impact upon a member's judgement, should be declared by the Member at the meeting. In each case, this would be a matter for the Member's **own** judgement having full regard to the facts.
- 4.7 An example of this type of interest might be in relation to a planning application on a site very near to the member's home (where it may well be advisable for the member not to take part).
- 4.8 Even if a member considers a non-pecuniary interest would not have a significant impact on their judgement, there are likely to be situations where the public expectation would be for the member not to participate. Equally, there may be circumstances in which a member of the public would not regard it necessary for a member to declare an interest or involvement in a matter but for reasons of good practice and transparency, a member chooses to do so, simply to be as open as possible. In these circumstances, the declaration would have no impact on the Member's participation.
- 4.9 Councillors who are unsure whether an interest should be declared or need guidance, should do so before the Planning Meeting, by seeking advice from the Monitoring Officer or Deputy Monitoring Officer.

5 Predetermination, Predisposition and Bias

- 5.1 Members of the Planning Committee must ensure that they do not fetter their ability to take part in the decision making process by making up their minds or clearly giving any appearance that an application or other matter referred to the Planning Committee has already been determined, before the Planning Committee has the opportunity to consider the merits or demerits of an application.
- 5.2 The Planning Committee should when considering an application, take into account **all views** that are expressed in such a way that they are **openly heard** and **fairly** considered in a **balanced** way before the Committee reach a decision.
- 5.3 The courts have sought to distinguish between situations that involve predetermination or bias, on the one hand **and predisposition** on the other.

- 5.4 **Predetermination** is indicative of a “**closed mind**” approach and could leave the committee’s decision open to challenge by Judicial Review. Such “pre-determination” has been held to amount to the “surrender by the decision-maker of its judgement by having a closed mind and failing to apply it to the task”.
- 5.5 Members of the Planning Committee can have a **predisposition** to an initial view, but **must make it clear** that they have an **open mind** and are willing to listen to **all material considerations** presented before deciding on how to vote.
- 5.6 A councillor who has **predetermined** their position should **withdraw** from being part of the decision making body. If the councillor takes part in the decision making process it will put the Council at risk of finding of maladministration and of legal proceedings on the grounds of there being a risk of bias or predetermination or a failure to take into account all of the factors enabling the application to be considered on its merits.
- 5.7 Members and Officers should also avoid the **appearance of bias**, that is, appearing to give undue weight to particular matters on the basis of personal attributes, or social acquaintance, that might influence their conduct generally and ties in with comments made in relation to declarations of interest above. Whilst it might remain possible for a Member to apply an open mind to the matter to be determined in such circumstances Members must avoid giving the impression or appearance that particular personal interests or attributes would lead them to consider aspects of an application more carefully or with more regard than other aspects unaffected by their own character and experience. It should be understood that the perception of justice *“is rooted in confidence, and that confidence is destroyed when right minded people go away thinking that the judge was biased”*.
- 5.8 For Planning Committee Members the aim is that they act, and are seen to act, impartially and honestly by approaching each planning decision fairly between the parties and with an open mind. Should a Member wish to take a particular stance in relation to a development, or feel that it would be difficult to demonstrate that they have followed a consistently fair approach between all parties in a case, then it is perfectly possible for them to decide not to be part of the decision making process on the particular issue or application but to act as a ward member in that instance.
- 5.9 From time to time, members are invited by prospective developers or objectors to attend meetings to discuss proposed development schemes and questions have been asked about the propriety of such attendance. Members and the Council could be challenged where they have expressed their opinion on proposals during or after such meetings, or in advance of Committee consideration.

- 5.10 The administrative system by which planning applications are determined in accordance with the law, and as necessary in a democratic society, would be brought into disrepute if it became evident that decisions favourable to an applicant or an objector could be obtained by lobbying members outside the procedural framework. On the other hand, members may be said to have a duty, particularly as Ward Councillors, to inform themselves of proposals that affect their wards and to be alive to public opinion. Members can play a constructive role in listening to and objectively gathering and reporting such views to the Councillors who will determine the application.
- 5.11 With these points in mind, it is suggested that the following guidelines may be helpful to members when considering whether to accept an invitation to a meeting:
1. Where members accept invitations to meetings from prospective developers or objectors when an application for planning permission has been received, even if the invitation is made to them ostensibly as a Ward Councillor, they should avoid expressing any fixed view on the matter.
 2. Councillors must not make any commitment to determine a matter in a particular way, for any reason .
 3. Ward Councillors (subject to paragraphs 1 and 2 above) should not accept invitations to meetings from prospective developers or objectors unless it is clear to them that the meeting is either a public meeting or one to which residents or other persons with an interest in the potential development have also been invited. If a Ward Councillor attends such a meeting in the belief that others have been invited but finds that no other persons are present, apart from the developer, s/he should decline to take part in any discussion of the scheme. There is no reason to distinguish between meetings in neutral premises and meetings in the prospective developer's or objector's own premises.
 4. There is nothing to stop members inspecting a site from the public highway if they choose to do so in order to better acquaint themselves with the details, but members should be aware of the risk of contact with the applicant or objector and inferences, which might be made. If access to a site is required, a formal site visit should be sought through the planning Case Officer.
 5. There is nothing to stop members responding to invitations to a meeting if properly convened through the Chief Executive or by officers in the planning service to which all relevant members (but not members of the public) have been invited, provided that if the merits and problems of the application are discussed Councillors make it clear that they have no fixed view of the matter at that stage.
- 5.12 It will, of course, remain open for the Council to sanction a departure from these guidelines in special circumstances.

6 The Decision Making Process and Decisions Contrary to Officer Recommendations and/or the Local Plan

- 6.1 All Committee decisions are made by a simple majority.
- 6.2 In discussing, and determining a planning application or other planning matter, Councillors should try to confine their discussion to the policies of the Development Plan, and to those material considerations that should influence their decision. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.
- 6.3 However, it is acknowledged that deputations by applicants or members of the public may refer to matters that should not properly be part of the reasoning of the members' decision. On such occasions, it may be difficult for members of the Planning Committee to confine their comments to the appropriate planning issues without appearing to disregard expressed concerns. Where it appears that the clarity of the decision-making process may be undermined, the Committee Chairman and officers may give guidance on any elements of the discussions that refer to irrelevant or immaterial considerations, and any elements that should be disregarded by the Committee in formulating its decision. Officers will clarify the weight to be given to the details of reports, or information that comes forward during deputations or in the course of debate.
- 6.4 If Councillors wish to refuse an application against officer advice, to impose additional conditions on a planning permission, or to approve an application contrary to officer recommendation, an officer should explain the implications of such action.
- 6.5 In circumstances where it seems likely that a planning application is likely to be refused against the officer's recommendation, the Chairman should consider whether it would be appropriate to require an adjournment of the meeting or even a deferral of that item to the next Planning Committee meeting to allow further discussions to be had. This is both to ensure that any potential reasons for refusal would be defensible at appeal and to give opportunity for any amendments that may overcome the potential ground for refusal.
- 6.6 Where they do not accord with the officer's recommendation, the Committee's reasons to grant an application or to refuse it or any additional conditions to be applied must be clearly stated by the member making the proposal.
- 6.7 If members cannot give sound and clear-cut reasons for a decision which may override the recommendations of the officers, it is not appropriate to require, or expect, that officers can explain such decisions to applicants, objectors or a planning inspector. When the Committee has made such a decision, the Chairman will allow brief discussion to ensure that officers have understood the intentions and reasons of the Committee. All conditions, including ones that the Committee may wish to impose on a planning permission, must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

- 6.8 If the report of the Head of Planning recommends approval of a departure from the Local Plan, the full justification for that recommended departure will be included in the report.

7 Lobbying

- 7.1 Lobbying is a normal part of the planning process and may not be restricted to members of the Planning Committee. If a Member, who is not on the Planning Committee wishes to support a particular viewpoint then that Member has a right to appear at Planning Committee and seek permission to address the meeting. This approach is recommended to protect the integrity of the members of planning committee against accusations of bias and/or predetermination as the public perception could be that the member added more weight to, or was swayed by views, of a colleague.
- 7.2 Since lobbying can lead to the impartiality and integrity of a Member being called into question it is clear that care should be taken, and all parties involved should exercise common sense. It is therefore important that Members protect their impartiality and integrity in planning matters. Planning Committee Members will not breach the Code by listening to or receiving viewpoints from residents or other interested parties as long as they make it clear that they are keeping an open mind. However expressing an intention to vote one way or another before a Planning Committee meeting would prejudice impartiality.

8 Councillor “Call-in” Procedure

- 8.1 Most planning applications are determined by Planning Officers in line with the Council’s Scheme of Delegation. However even when the Scheme of Delegation authorises Officers to determine the application a Planning Committee Member or a member representing the Ward in which development is proposed, may wish for a planning application to be considered by the Planning Committee . In these circumstances, the following rules must be complied with. Failure to do so entitles Officers to refuse to put the application to committee and determine it under delegated authority.
- A “call-in” request must be received within **28 calendar** days following the date of public notification by the Planning Services. This gives the Councillors enough time to read the comments being received from other parties (who have 21 days to comment).
 - The request must be in writing (email is acceptable) to the Case Officer, copied to the Head of Planning and Planning Development Manager asking that the item being referred to, be “called-in” to the Planning Committee,
 - The request must be on **relevant planning grounds** or **merit** intervention to have the application placed before the Planning Committee.

- 8.2 It is not the case that just because a member of the public requests call-in of an application on their behalf, that this should be actioned. It is the responsibility of members to explain to their electorate that a call-in cannot be justified, as there are no planning grounds for doing so.
- 8.3 **All “call-ins” made by Councillors stating material planning grounds and within 28 calendar days will be valid.**
- 8.4 Where the “call in” is not made on material planning grounds, the “call-in” will be **invalid**. The decision as to whether the grounds are justifiable will be at the discretion of the Head of Planning, in consultation with the Chairman of Planning and the members concerned.
- 8.5 A Member who has a Disclosable Pecuniary Interest should **NOT** ask for an item to be called in or if there is a risk of the Member being seen as biased: for example if the Member has a very strong connection through a non-pecuniary interest.
- 8.6 Members who have asked for a call-in must ensure that they attend the committee meeting to which the item is being discussed to explain the planning reasons why the application merits consideration by the Planning Committee.

9 Planning Applications made by Members and Officers

- 9.1 When a planning application is submitted by a Member or by a close relative of a Member, the Member will:
- Advise the Monitoring Officer of the application
 - Take no part in the processing and determination of the application
- 9.2 All such applications will be reported to the Planning Committee. The Committee will determine such applications. An Officer will not determine such applications under delegated authority.
- 9.3 The same considerations shall apply to planning applications submitted by Chief Executive, Chief Operating Officer or Heads of Service, including the Head of Planning, Planning Development Manager or Planning Policy Manager.
- 9.4 Officers and Members must not act as agents for people pursuing matters within Epsom & Ewell Borough.

10 Late Representations

- 10.1 Late representations by the applicant or objectors regarding applications being presented to Committee will be considered up until midday on the Monday immediately before the Planning Committee meeting (Thursday) and will be summarised by the Case Officer and sent to the Planning Committee Members at least one day before the meeting on the Thursday.

- 10.2 Comments or any other information received after the deadline will only be taken into consideration in exceptional circumstances at the discretion of the Head of Planning. This process ensures the Planning Committee Members have sufficient time to read any additional papers.
- 10.3 **No** material will be handed out at committee by anyone other than the Officers presenting the item before committee.

11 Public Speaking at Planning Committee

- 11.1 Certain members of the public or organisations that have a planning related interest or could be affected directly by the matter under consideration will be entitled to speak at the Planning Committee.
- 11.2 These individuals/organisations fall into the following categories:
- Ward councillors who are not members of the planning committee
 - applicants or their agents
 - local groups
 - neighbouring occupiers or
 - owners of any premises which is the subject of an enforcement report
- and may either support or oppose the application.
- 11.3 An individual or representative of a local group/organisation who wishes to speak at a Planning Committee must register their wish to do so between 6pm and 7pm on the evening of the meeting at the Town Hall reception desk.
- 11.4 Normally, in addition to the applicant/agent, only one member of the public may speak for or against a single application. Registration will normally be on a first come first served basis but an individual may choose to waive this right in favour of an individual who attempted to register at a later time. Alternatively, several members of the public may appoint one person to speak on their behalf provided they can reach agreement to this amongst themselves.
- 11.5 A speaker shall have a maximum of three minutes to address the Committee and must confine their remarks to the application upon which they requested to speak. The applicant/agent shall be given an amount of time equal to the amount of time allocated to the all the objectors. The address shall be in the form of a statement, not attempts to question the applicant or other persons but may address issues raised by other speakers.
- 11.6 Speakers should only raise issues concerning planning matters such as;

- appearance and character of the application
- traffic issues, highway safety and parking
- layout and density of buildings
- loss of light overshadowing and loss of privacy
- noise, disturbance and other loss of privacy
- other relevant planning considerations

11.7 There will be no opportunity for displaying any materials, such as maps, photographs or circulate any other materials or ask any questions of anyone at the meeting.

11.8 If the Chair considers that any remarks made are defamatory, no further representation will be allowed. Individuals or organisations will be invited to address the Committee following the presentation of the item by the Officer. The order of speakers will be:

- Ward councillors wishing to speak
- Objector
- Supporter
- Applicant or their agent

12 Monitoring and Review of Decisions

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

12.2 Arrangements will be made for Members to visit a sample of implemented planning permissions, so that a regular review of the quality of planning decisions can be undertaken.

12.3 The outcome of the review will be considered by the Planning Committee and may lead to the possible amendments to existing policies or practices

13 Training

13.1 No Member (or Member substituting on a Planning Committee) may attend a Planning Committee meeting without first having received appropriate mandatory training as set out below.

- 13.2 The validity of this training will expire if the Member has not attended a meeting of the Planning Committee within 12 months of receiving it, or has had a gap in membership from the Committee of more than 6 months. Where the validity of the training has expired, the Member may not sit on the Planning Committee until they have received further training.
- 13.3 Given the complex legislative framework for determining planning applications and the constant reforms and changes within the planning system, the Head of Planning will provide a Planning Committee Training Programme to include:
- An annual training session that will provide an overview of the key role of planning and the role Members play in the planning process. This training will usually be held once the membership of the Planning Committee has been confirmed at Annual Council and should be attended by both new and continuing Members of the Committee. However, all members of the Council will be encouraged to attend to help them understand planning issues. If Members are appointed to the Planning Committee after the training has been held and have not received the necessary training, or act as a substitute for a Planning Committee Member, they will receive separate training.
 - A six month mandatory refresher session
 - Further training sessions as necessary on new Council and Central Government policy and legislation or other planning issues that are requested by Members or Officers. Again, all members of the Council will be encouraged to attend such sessions.
- 13.4 It is expected that Members will be available to attend training sessions and it will be the responsibility of each Member to ensure they have attended at least the annual training and the six-month refresher to enable them to sit on the Planning Committee. Democratic Services will maintain a register of Members who have received this training.

14 Complaints

- 14.1 A complaint that a Member or Officer has breached this Code should be made in writing to the Monitoring Officer for investigation and determination
- 14.2 There is a specific right of appeal for applicants who are not satisfied with a planning decision. In all other cases, the Head of Planning will investigate a complaint made in writing regarding the determination of a planning application or a related planning matter and would deal with it in accordance with the Council's complaints procedure.
- 14.3 In order that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Councillors.

- 14.4 The same principles of good record keeping will be observed in relation to all enforcement and planning policy matters. The Planning Development Manager will regularly monitor record keeping.
- 14.5 A complaint may be made to the Local Government Ombudsman in the event that the complainant was not satisfied with the result of the investigation under the Council's complaints procedure. This must be done directly to the Local Government Ombudsman.

15 Site Visits

- 15.1 Members and Officers must remember, in conducting a site visit anything said or done by them should be restricted to relevant planning considerations and should remain open minded.
- 15.2 The purpose of an organised Council site visit is for Councillors to gain knowledge of the development proposal, the application site and its relationship to adjacent sites. The potential benefit of attending the site should be sufficient to justify the administrative expense and any consequential delay to determining the application.
- 15.3 The decision to hold a site visit prior to the Committee meeting is to be made by the Head of Planning in consultation with Chairman.
- 15.4 The purposes of a formal site visit prior to the Committee meeting are:
- to view the setting of the application,
 - to consider any other matters seen on site which may be material to consideration of the application, and
 - to find facts, especially when the application site is not visible from public land.
- 15.5 During a site visit members and officers should avoid any appearance of impropriety, and must not accept gifts or hospitality. Comments should be restricted to planning matters, and questions should be put through the planning officers attending the site visit. Officers and members must refrain from making comments that might be construed as supporting or opposing a particular view, and from making any personal comments.
- 15.6 The purpose of a formal site visit is not to receive or allow representations to be made outside the formal Committee meeting. If, on a site visit, Members and Officers are approached by persons wishing to speak about the application, Officers will explain that any representations may be made to the Committee at the meeting, and explain the procedure.

- 15.7 Site visits should be requested by Members prior to the application being reported to Committee. Councillors should only request a site visit when the application has reached the determination stage if they consider it essential to clarify an issue that cannot be understood without such a visit, and which could not have been considered earlier. The Committee may decide to visit a site because particular factors to be seen on site are significant in terms of the weight to be afforded to them in determining the application and because, following discussion in Committee, members have reduced confidence that such factors can be fairly considered in the absence of a site visit to assess such details. In proposing a site visit, the member who wishes the Committee to have additional opportunity to do so should specify the factors to be noted if the site visit is agreed.
- 15.8 Members with a pecuniary interest in a planning application should not make representations seeking a site visit in respect of an application. Members with a pecuniary interest in a particular application or agenda item must not attend any related site visit.

16 Development proposed by the Council

- 16.1 Parliament has decided that local planning authorities are, in the majority of circumstances, the appropriate body for determining planning applications affecting the area, including where the Council itself submits a planning application. There are separate statutory requirements for the Council in determining applications to develop its own land, or to develop it jointly with another body.
- 16.2 Members and Officers involved in reaching a determination of the application should treat proposals for the Council's own development (or development involving the Council and another party) in the same way as those by private developers. This means that not all applications on Council owned land need to be considered by Committee. However, the planning decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council be seen to be treating such applications on an equal footing with all other applications, as well as actually doing so.

17 Member/Officer Relations and Planning Decisions

- 17.1 The Head of Planning or the Planning Development Manager will always attend meetings of the Planning Committee to ensure that procedures are properly followed and planning issues properly addressed.
- 17.2 Other senior officers with appropriate professional and technical experience will also be present when an application has aspects relating to their professional expertise. Where the Council's professional experts, such as environmental health officers or highway engineers, attend Committee to ensure that appropriate advice can be given and discussed with their assistance, Members must give due weight to such advice. It is the obligation of such officers to give considered and independent advice for the benefit of the Council.

18 Review of Protocol

18.1 This Code will be reviewed as necessary and at least every four years to take account of:

- new planning legislation
- changes to national codes of conduct
- emerging examples of good practice