

PART 5
SECTION C: Code of Practice on Planning Matters (May 2017)

Availability of Code

This Chiltern District Council local 'Code of Practice on Planning Matters' is a publicly available document intended to demonstrate the way in which all Members, and officers, will conduct themselves. The code will be kept under review, and may be adapted from time to time.

1. Introduction

- 1.1 The role of an elected Member [in this Code of Practice 'Member' has the same meaning as 'District Councillor'] on the Planning Committee involves achieving a balance between representing the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making on planning grounds on what can be highly controversial proposals.
- 1.2 This 'Code of Practice on Planning Matters' is intended to demonstrate the way in which all Members of Chiltern District Council, and its officers, will conduct themselves when dealing with, and deciding, planning matters, and planning applications in particular. The code is not restricted to Planning Committee Members and to planning officers only.
- 1.3 It also relates to those decisions on planning, and other, applications made by the Head of Planning & Economic Development or other authorised council officers acting under delegated authority of the Council [see Section 16 below].
- 1.4 The successful operation of the planning system relies on mutual trust and on the understanding of each other's roles. It also relies on Members and officers ensuring that they act in a way which is not only fair and impartial, but is also clearly seen to be so. Planning Authorities should make planning decisions openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting, with any justification, that a decision has been partial, biased, or not well-founded in any way.
- 1.5 The conduct of Members is governed by Statute, the Council's Constitution and the adopted Members Code of Conduct. This Chiltern District Council 'Code of Practice on Planning Matters' takes account of advice given by the Department of Communities and Local Government. Planning Advisory Service and the Local Government Ombudsman, and recommendations made by independent inquiries into the conduct of a number of local planning authorities.
- 1.6 This code cannot cover every eventuality that may arise, and Members may wish to seek further advice from officers on other situations that may occur.

2. Acting Within The Law

- 2.1 Members (Councillors) hold office by virtue of the law, and are charged that at all times they act within the law.
- 2.2 The Council's planning responsibilities are defined by the Planning Acts and associated Regulations, Orders and statutory guidance. The Council's legal and planning officers must

give advice on matters of law, but the ultimate responsibility for the actions of Members lies with the Members themselves.

3. Public Duty

- 3.1 The Council's planning policies are adopted in the interests of the whole community, i.e. the District, and, in almost all cases, have been subject to a process of public consultation and local inquiry. They reflect the public interest, rather than those of an individual, group of individuals, group, or organisation.
- 3.2 Members have a duty to their constituents, including those who did not vote for them, but their overriding duty is to the local community as a whole. Members are involved in planning matter to represent the interests of the whole community and must maintain an open mind when considering planning applications. They should not favour any individuals or groups, and, although Members may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must only take into account material planning considerations, which can include public views where they relate to relevant planning considerations. Local opposition or support for a proposal is not in itself a ground for refusing or granting permission, unless it is founded upon valid material planning reasons. Members must, therefore, represent their constituents as a body and vote in the interests of the whole District. They must not put themselves in a position where they appear to favour any person, group, company or locality. Members who do not feel that they can act in this way should consider whether they are suited to serve on a Planning Committee.
- 3.3 Accordingly, Members and officers should support the Council's planning policies where these are relevant to a planning application unless there is an overriding planning reason, or reasons, for not doing so. This is reinforced by the provisions of Section 70(2) of the Town and County Planning Act 1990 and Section 38 of the Planning and Compulsory Purchase Act 2004 which require the Council to determine applications in accordance with the Development Plan unless there are material considerations that indicate otherwise.

4. Declarations of Interest

- 4.1 The declaration of pecuniary interests is governed by the Localism Act 2011 and declaration of personal and prejudicial interests is governed by the Members Code of Conduct.
- 4.2 It is for Councillors to interpret the Code of Conduct using the guiding rule that one should not use one's position to further a private or personal interest, rather than the general public interest, or act in such a way as to give grounds for such suspicion. The Localism Act 2011 and the Code refers to participation at meetings, but if a Member has a prejudicial interest in an application, the Ombudsman has made it clear that Members have a duty to disassociate themselves from all processing of that application. This disassociation should also apply to discussions and to site visits.

Note: Para 9(2) of the Code – which allows Members with a Prejudicial Interest to speak at Planning Committee where the public are also allowed to speak.

- 4.3 If a Member attending a meeting of the Planning Committee has a disclosable pecuniary interest in any matter on the agenda, he/she must declare the existence and nature of that interest at the beginning of the meeting or as soon as it becomes apparent and must withdraw from the meeting whilst the matter is being considered unless he/she has been granted a dispensation under section 33 of the Localism Act 2011. A disclosable pecuniary interest is defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and set out in Appendix A to the Code of Conduct.
- 4.4 If a Member attending a meeting of the Planning Committee has a personal interest in any matter on the agenda, he/she must declare the existence and nature of that interest at the beginning of the meeting or as soon as it becomes apparent. The Code of Conduct provides that a Member has a personal interests in a matter when a decision on it would affect his/her financial position or wellbeing or the financial position or wellbeing of:
- a member of your family or any person with whom you have a close association;
 - any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors
 - any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000
 - other local authorities or public or charitable bodies of which he/she is a member or holds a position of a management or control;
 - any body to which he/she has been appointed or nominated by the Council; and
 - any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), and of which he/she is a member or holds a position of management or control.

It follows that the range of potential personal interests is likely to be broad.

- 4.5 The Code of Conduct provides that if a member of the public with knowledge of all the relevant facts (i.e. knowing what the Member knows) would reasonably regard a personal interest as being so significant that it would affect the Member's judgement of the public interest, that interest will also be a prejudicial interest. If a Member has a prejudicial interest in any matter under consideration at a planning committee he/she must declare the existence and nature of that interest at the beginning of the meetings or as soon as it become apparent and he/she must withdraw from the meeting while the matter is being considered unless he/she has been granted a dispensation under section 33 of the Localism Act 2011. (See Note to 4.2 above.)
- 4.6 Consequently Members should approach the question of deciding whether a personal interest is also a prejudicial interest from an objective stand point. The question is not whether the Members judgement of the public interest actually was prejudiced by the nature of the interest, but whether a resident in the public gallery knowing all the facts would reasonably consider that this was a likely outcome. Therefore the test is not actual harm to the public interest arising from the failure to declare a prejudicial interest but the potential for harm in the Member not doing so.
- 4.7 Given the serious consequences of failing to declare a pecuniary interest - possible prosecution and disqualification from office together with the potential to undermine the validity of the decision taken, Members should resolve doubts about whether an interest is

pecuniary by declaring a pecuniary interest and withdrawing from the meeting while the matter is being considered.

- 4.8 Although in cases of doubt Members should seek the advice of the Monitoring Officer in advance of the meeting, ultimately the responsibility for declaring a pecuniary, personal and/or prejudicial interest lies with the individual Member. In particular, this means that as soon as a Member is aware that he/she has a pecuniary or prejudicial interest in an application, he/she should take no further part in its processing. In particular this means:
- 1) he/she should not comment on an application as Ward Member prior to its determination;
 - 2) if invited to comment as Ward Member, he/she should decline to do so;
 - 3) he/she should not ask for an otherwise delegated matter to be considered by the Planning Committee;
 - 4) at the Planning Committee he/she should declare the existence and nature of that interest at the beginning of the meeting or as soon as it becomes apparent and withdraw for the meeting while the matter is being considered. (See Note to 4.2 above.)
- 4.9 Officers must declare any personal or financial interests in any planning matter or application before the Council, must not deal with such matters on behalf of the Council, and must not give advice to Members or other officers on them. An officer with a personal or financial interest in a planning matter must withdraw from any relevant Committee or Council meeting whilst the matter is discussed. Planning Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental pressure groups. This also applies in the case of delegated decisions. If an officer has an interest in an application, he/she must declare that interest and take no part in its processing or in the making of the decision.
- 4.10 The Ombudsman's advice on declarations of interest is quite clear. The Council is at risk of a finding of maladministration if a Member who has a pecuniary or prejudicial interest in an application exercises ANY of the powers or privileges accorded to Members in respect of that application – subject to Note at 4.2 above.
- 4.11 A Member may not become aware of a potential interest until after he/she has submitted comments as local Member or taken some other action. If this happens, the Member should contact the Head of Planning & Economic Development, or Development Control Manager or Senior Planning Officers (Development Control) urgently as soon as the situation arises so that the officers can take the appropriate action. The appropriate declarations should be made and actions taken if/when the matter is considered by the Planning Committee.
- 4.12 If a Member has to disassociate himself/herself from an application, it may be considered that their constituents have become disenfranchised. This does not entitle the Member to set aside the advice in this section. In these cases, the Ombudsman recommends that:

- 1) another Member from the same Ward, or from an adjoining Ward, should be invited to take an interest in the matter;
- 2) constituents who approach the Member concerned should be invited to contact that other Member or another Member on the Planning Committee;
- 3) the relevant Member should avoid expressing any view about the application to other Members [except as set out below] and should NEVER communicate to other Members of the deciding meeting what he/ she would have said had he/ she been able to do so.

4.13 An officer should also declare his/ her interest in any applications in which they have an interest or which affects their property, and, if appropriate, submit any views in writing on plain paper, as a third party, for consideration.

5. Fairness And Equity

- 5.1 Members should treat all their constituents and others fairly and give no intimation of specific support or encouragement for a particular applicant or objector until they are in possession of all the facts.
- 5.2 It is legitimate for Members to assist an applicant by explaining how to go about making an application. With regard to advice to applicants or objectors about whether or not a proposal is in line with planning policies, Members must be sure that they are fully aware of all policy implications, otherwise an applicant or objector might be misled. It is often safer to refer the enquirer to an officer of the Council.

6. Member–Officer Relationships and Roles

- 6.1 Members and officers have different, but complementary, roles. Both serve the public, but Members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 6.2 The officers' role is to advise Members and the Council of the relevant planning policies and other material considerations; the Members' role is to make planning decisions on the basis of that advice.
- 6.3 Officers must give objective, impartial planning advice, based upon their professional judgement, and not be compromised or influenced by political considerations, other than through the formal development of the Council's planning policies.
- 6.4 It is important that there is a good working relationship between Members and officers, based upon mutual understanding of, and respect for, their respective roles. This relationship, and the trust which underpins it, must never be abused or compromised.

7. Lobbying Of, And By, Councillors

- 7.1 The lobbying of Members is a normal and perfectly proper part of the political process; those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or a Member of the Planning Committee. The lobbying may come from an applicant, their agent, or from third parties who are opposed to, or support, the application.
- 7.2 Behind the scenes lobbying can provoke suspicion that a planning decision may be unduly influenced by a particular interest. Members must bear in mind that their over-riding duty is to the local community as a whole. Accordingly, if Members are willing to be lobbied by one party, they must give the same opportunity to all other parties. Alternatively, they can decline to be lobbied by any party and refer the lobbyist to the officers.
- 7.3 Particularly with smaller applications, prospective applicants may seek assistance from a Member before they submit their application. While it may be helpful to assist such applicants and to describe the Council's adopted planning policies, Members should not offer an opinion whether a particular proposal is consistent with those policies without consulting an appropriate planning officer. It may be more appropriate, at the outset, to refer the person seeking the advice and guidance to a planning officer who will be pleased to assist the person concerned.
- 7.4 Members may be invited to 'presentations' by both promoters and opposers of a scheme. Members should be very cautious about accepting such invitations, particularly if hospitality is involved. In some circumstances it may be appropriate to attend, but prior advice from senior officers should always be taken before the invitation is accepted, and before attending. If a Member finds out that planning officers have not been invited, or are not welcome, then it would be less appropriate for a Member to attend. If a Member, after weighing up the advice, decides to attend the presentation, no views should be expressed for or against the scheme. Any questions that may be asked by the Member should be phrased carefully, and the promoters of the scheme should be requested to copy any material to the planning officers so that they can advise on the contents of the draft scheme. If any hospitality is offered at the presentation, the advice in section 18 below should be followed.
- 7.5 Lobbying may be by way of a letter, email, telephone or other means of communication. It may be by means of a casual meeting, or at a Members' surgery. If the lobbying is by way of a letter or email, it is suggested that the letter/email is passed or copied to the case officer or to a senior planning officer. As a courtesy, the letter/email can be simply acknowledged by the Member and the writer advised that the letter/email has been forwarded to the planning officers and will be taken into account before and when a decision is made. A letter/email may be forwarded to a Ward Member, or to a single Member on the Planning Committee. If a letter/email is to be relied upon at the meeting, it should be copied to the planning officers, for both the application file and for more general publicity at the Committee meeting. If it is received too late for this to occur, then it can be referred to at the meeting, but should be passed to the officers for inclusion in the application file.

- 7.6 With personal contact, or with a telephone conversation, Members will listen to the views being expressed, and may ask questions to seek clarification from the other party. They will request the other party to submit any representations in writing/by email to the Head of Planning & Economic Development so that their views can be taken into account at the appropriate time.
- 7.7 However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Member being called into question. As a result:
- 1) when being lobbied, Members, and Members of the Planning Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments;
 - 2) if Members do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the Planning Committee meeting;
 - 3) Members should avoid organising support for, or opposition to, a planning application, and avoid lobbying other Members; such actions can easily be misunderstood by parties to the application and by the general public.
- 7.8 Members should not negotiate in respect of an application directly with an applicant or with a planning officer on behalf of an applicant or third party (e.g. an objector). Whilst it may be tempting to suggest to an applicant that their scheme might be improved by their addressing certain factors, such views should only be expressed through a planning officer, or upon the instructions of the Planning Committee to the officers.
- 7.9 If a Member is unwittingly drawn into negotiations, they may find themselves compromised. In such circumstances, the Member should consider that they have a clear and substantial interest, and should take no further part in its processing and will absent themselves from the discussion at the meeting when the decision is to be taken.
- 7.10 Given that the point at which a decision on a planning application is made (other than those determined under delegated authority) cannot occur before the Planning Committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the Committee meeting should not be used to decide how Councillors should vote.
- 7.11 In addition, Members:
- 1) are encouraged to discuss any concerns they may have with the relevant planning officer;
 - 2) should not put pressure on planning officers for a particular recommendation;
 - 3) submitting applications, or with an interest in planning matters, which in due course would normally have to be declared, should not seek to lobby or influence

Members of the Planning Committee to determine the application or matter in a particular was [this also applies to officers in the same position].

8. Applications By Members and Officers and the Council's Own Development

- 8.1 Occasionally, applications may be submitted by, or may affect, Members and officers who live in the District. In such cases, this can easily give rise to suspicions of impropriety. This can also occur in relation to a Council's own development, either through planning applications or through development plan proposals.
- 8.2 It is perfectly legitimate for such proposals to be submitted. However, to avoid any grounds for accusations that such applications are considered more favourably than other applications, all such applications will be treated and publicised in the same way as other similar applications. Applications submitted by all Councillors, by all officers of the Planning Department, and by other senior officers of the Council, will be determined by the Planning Committee in public. None of these applications will be delegated to the Head of Planning & Economic Development or another authorised officer.
- 8.3 In regard to the Council's own applications, these will also be treated and publicised in the same way, and in accordance with the Town and Country Planning Regulations 1992, and will be considered by the Planning Committee in public; the Committee will submit a recommendation to the Council, with its view on how the application should be determined. Members will receive a report and recommendation from the planning officers on all Council applications.
- 8.4 Members who act as agents for people making an application to the Chiltern District Council should play no part in the decision-making process for that proposal, neither should they, nor an officer, play any part in relation to their own personal application. In those cases where a Member or officer may be affected personally by a planning application proposal, the procedure in section 4 above will apply.
- 8.6 The Council's Monitoring Officer will be notified of such applications so that this officer can confirm that relevant applications have been processed properly.

9. Pre-Application and Pre-Decision Discussions

- 9.1 Discussions between a potential applicant and a Council prior to the submission of an application can be of considerable benefit to both parties and is encouraged by the Department of Communities and Local Government]. However, it can become, or be seen to become, part of the lobbying process.
- 9.2 In order to avoid such problems, pre-application discussions should take place within clear guidelines. [In this context, the same considerations used for 'pre-application' discussions should apply to any discussions which take place before a decision is made.]
- 9.3 It should always be made clear by the officers at the outset that the discussions will not bind the Council to make a particular decision, and that any views expressed are personal

and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties, including the public, have taken place.

- 9.4 Advice by the officers should be consistent and based upon the development plan and material considerations. There should be no significant difference of interpretation of planning policies between planning officers.
- 9.5 A written note should be made of all potentially contentious pre-application or pre-decision meetings. If it is known beforehand that a meeting may be contentious, arrangements should be made for two officers to be present. A follow-up letter may be sent afterwards, particularly if documents have been left with the Council officers. Similarly, a note should be taken of potentially contentious telephone conversations. If the other party produces a note of the meeting, it should always be scrutinised carefully for accuracy, compared with the officers' record note, and any differences challenged in writing.
- 9.6 Care should be taken to ensure that advice given by the officers is not partial, or seen to be so, otherwise a subsequent report could appear to be advocacy on behalf of the applicant.

10. New Planning and Other Applications

- 10.1 After an initial assessment of the application forms, plans, certificate, and supporting information including a Design and Access Statement, and fee (unless not required) by the officers for correctness, a new valid planning, or other, application received by the Council's Planning Department, will be entered onto the Statutory Planning Register. The application will be allocated to a case officer, and formally acknowledged. The application will then be processed towards a decision.
- 10.2 A copy of each registered application will be available for inspection by the public in the Planning Department at the District Council Offices. Planning applications are also available to view on the internet through the Public Access link on the Council's web site.

11. Publicity To New Planning Applications

- 11.1 Publicity will be given to each new application as follows:
- 1) by inclusion in the List of Planning Applications available for inspection on Public Access. (The list will also be available for inspection by the public using the computers in Customer Services at the Council Offices);
 - 2) by the forwarding of a letter to the owner / occupier of properties which are close to the application site, notifying them of the receipt of the application, and seeking any views in writing;
 - 3) by displaying a site notice, and/or statutory notice in a local newspaper, in relevant cases.
- 11.2 All documentation concerning the publicity given to new applications will advise of the respective time-scales for the receipt of written views or representations, and the earliest

date after which a decision may be taken by the Planning Committee, or by the officers under delegated authority [see section 16 below].

- 11.3 All letters of representation will be formally acknowledged, and in due course, writers will be notified of the decision. All representations on planning matters submitted to the Council must be in writing, either by letter addressed to the Head of Planning Services, Chiltern District Council, Council Offices, King George V Road, Amersham, Bucks, HP6 5AW, or by e-mail addressed to planning@chiltern.gov.uk or sent via the Council's Public Access Website, or by Facsimile to the Head of Planning Services on 01494 586508, and no verbal representations will be accepted, other than by public speaking at Planning Committee meetings in accordance with the Council's adopted rules for public speaking at Planning Committee meetings.
- 11.4 Third party letters will be available for public inspection electronically via Public Access.

12. Officer Reports To The Planning Committee

- 12.1 For those applications which are not to be determined by officers under delegated powers, it is important, as a matter of good practice, for a written report and recommendation to be submitted by the planning officers to the Planning Committee. Failure to do so may constitute maladministration, and/ or give rise to judicial review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under S.38 – Planning and Compulsory Purchase Act 2004.
- 12.2 Reports should be accurate and cover the substance of the representations made in writing and received before the report is written. They should include details of the application, relevant provisions of the development plan, site considerations, relevant site history, details of consultee responses, a summary of representations of the local Town or Parish Council and third parties, the issues involved (including any other material considerations), which clearly lead to the recommendation. The recommendation will also include proposed conditions and reasons for the conditions, or reasons for refusal. All reports will be updated where additional information has been received by the Planning Division since the written report was prepared. Where a separate oral report is made on an item which is not on the agenda because the Chairman rules that it is urgent, then full details will be included in the minutes of the meeting.[see also paragraph 14.4 below].
- 12.3 If a recommendation on a report is contrary to the provisions of the development plan, the issues section of the report will set out fully the justification for this.
- 12.4 A copy of the written report will be retained on the electronic application file. A similar written report will be prepared for applications on which a delegated decision is to be made, and a copy will be retained in the same way - see paragraph 16 below.
- 12.5 A copy of the Committee agenda and officers' written reports to the Planning Committee will be available at least five clear working days before the relevant Committee meeting. The electronic application file, including third party letters, consultee responses, officer notes, report and recommendation, will also be available at this time.

13. Site Visits

- 13.1 It should be remembered that Members do not have any greater right to enter property than any other member of the public. Accordingly, Members should not enter an application site, or adjoining property, unless there is a general public right of access to the property, or, for example, the property is crossed by a public right of way.
- 13.2 If a Member considers that the only way in which they can make up their mind on an application or proposal is to see it from within the site, or property, itself, then they should seek prior permission from the land owner. The Councillor's identification badge should be carried on such visits.
- 13.3 Officers undertake site visits during the processing of all applications, but again, they need the permission of the applicant to enter property to view the site. If access is denied (which is unusual as it is in the interests of the applicant to enable the officers to process the application prior to determination, unless the applicant is not the site owner), advance written notice may be given to the applicant or landowner, under the provisions of the Town and Country Planning Act 1990, to enter the site. Permission must also be sought and given from adjoining property owners or occupiers, to enable application sites to be viewed from those properties. This is particularly relevant when a proposal may affect the adjoining property. Officers will also carry a Council identification badge.
- 13.4 The main purpose of a site visit is to give Members, and officers, knowledge of the site and its surroundings, in relation to a planning or other application, or other planning matter. A site visit is not part of the formal Planning Committee proceedings, and Members should use the visit for fact finding to obtain information about the site.
- 13.5 It is prudent for Members not to commit themselves as to the way in which they will vote on the application, as this should only occur at the Committee meeting when they are in possession of all the facts. Accordingly, Members should avoid entering into discussions with applicants or their agents, or with objectors/supporters, at the site visit.
- 13.6 Occasionally at a Planning Committee meeting, a Member, or Members, may, irrespective of the Ward they represent, request that the Committee defers making a decision until a subsequent meeting to enable a further site visit by Members, or an organised site visit by the Committee, to take place. This may be in the light of further information or additional representations that have been received which cannot be adequately expressed in the officers' written or updating report, the complexity of the proposal and its plans, the contentious nature of the proposal, difficulties of Members viewing the proposal from within the site or for the officers to take further legal advice. Members will only request a deferment where there is a substantial positive benefit in doing so.
- 13.7 In normal circumstances, Members will usually visit the site before the meeting, or following a deferment, either individually or with a fellow Member. With an organised site visit, this is arranged by the officers, in conjunction with the applicant/agent (as permission is normally required to gain access into the site) to take place normally before the next meeting of the Committee. An officer will attend the organised site visit, which will be a fact finding, information gathering visit; it will not constitute part of the formal Committee meeting, and will not be used to make any form of decision on the application. As a result, Members

should not make any comments on the planning merits or how they are minded to vote, and should avoid any opportunity to discuss the matter with either applicant, agent or third parties.

14. Planning Committee Procedures

- 14.1 The Planning Committee normally meets on a Thursday evening, every three weeks, and the officers' reports and recommendations, including those on each application, together with the file, representations and consultations, will be available for inspection electronically at least five clear working days before the meeting.
- 14.2 The general premise of the Council and of the Planning Committee is that all reports and recommendations of the officers will be considered in open session, with the public and press present. Only in a few instances, where confidentiality is required, will a report, or reports, to any meeting be considered in 'private session', with the public and press excluded, under the provisions of Section 100A of the Local Government Act 1972 [because it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act]. Any matters falling under this heading will be set out on the agenda and open report to the relevant meeting.
- 14.3 Other than in exceptional circumstances, all planning and other applications submitted to the Planning Committee for decision will be considered in open session, with the public and press able to be present. [see also section 16].
- 14.4 Planning decisions should be made on the basis of the officers' written reports and recommendations, and having regard only to considerations that are material in planning terms. No final decision will be made on an application until all the time-scales for publicity, notification and consultation have expired.
- 14.5 It is often necessary for the officers to update verbally written reports at the meeting, for example, due to late receipt of consultation responses or additional letters of representation for or against an application. [see also paragraph 12.2 above]. In addition, Members sometimes seek further information from, or put questions to the officers, to clarify matters before they decide the application, and may request a deferment until a subsequent meeting to enable further information to be obtained or a further site visit to be undertaken.
- 14.6 There may be very rare occasions when the Chairman may be asked to rule that an additional item, or items, is raised as an urgent item. Such items, if they are accepted as urgent, will be included in the minutes of the meeting. No planning application will be considered as an urgent item, and will not be considered by the Committee unless, and until, the Committee has received a written report and recommendation from the officers.
- 14.7 Minutes of each Planning Committee meeting will be prepared and published approximately one week after the meeting, subject to agreement by the Committee at the next meeting that they are a correct record of the proceedings.
- 14.8 Pre-Committee briefing meetings between the officers and the Chairman and Vice-Chairman of the Planning Committee are held before each formal Committee meeting.

This is always held after the agenda has been set and the officers' reports and recommendations made and published. No decisions are, or can be, made at these briefing meetings. The purpose of these meetings is to inform and brief the Chairman and Vice-Chairman on the reports and recommendations, to advise of any verbal updating at the Committee meeting that will be necessary, to afford them an opportunity to give notice to the officers of any potential problems, and to seek from the officers further information for presentation at the meeting.

15. Decision Contrary to the Planning Officer's Recommendation and/or to the Development Plan

- 15.1 As mentioned in paragraph 3.3 above, the law requires that where the development plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise [Section 38 of the Planning and Compulsory Purchase Act 2004].
- 15.2 If it is intended to approve an application which is contrary to the provisions of the development plan, the material considerations which lead to this conclusion must be clearly identified, and how they justify overriding the development plan clearly demonstrated. The application may have to be referred to the Secretary of State for Communities and Local Government, depending upon the type and scale of the development proposed. If the officers have recommended approval, the justification should be set out clearly in full, in the written report to the Planning Committee.
- 15.3 Where the Planning Committee makes a decision contrary to the officers' recommendation (whether approval or refusal), the Committee must provide detailed reasons and justification for its decision; these will be fully minuted. The planning officers should also be given the opportunity to explain the implications of the contrary decision. The Committee's reasons should be clear and convincing; the personal circumstances of the applicant will rarely provide such grounds.

16. Applications Delegated to the Officers to Determine

- 16.1 Under the provisions of the Local Government Act 1972, the Council has delegated to the Head of Planning & Economic Development the authority to determine certain types of planning and other applications. Details of the current Delegation Scheme, which includes the limitations on the exercise of this authority, and the types of application to which the scheme relates, are set out in the Council's Constitution which is available on the Council's web site.
- 16.2 Subject to the exceptions set out in the Council's Constitution, all planning applications may be determined by officers under delegated powers if a District Councillor has not made a written referral to the Planning Committee.
- 16.3 Applications may receive a delegated decision of approval (even if there are objections from third parties) or refusal (even if there are letters of support), in both cases except as mentioned in paragraph 16.2 above. The Head of Planning & Economic Development will occasionally refer an application to the Committee for decision, and will also use his/her professional judgement in determining applications.

17. Confidentiality

- 17.1 There are valid reasons why some planning information should remain confidential. Members and officers must not disclose confidential planning information which is prejudicial to the Council's interests, or its role as the Local Planning Authority, and they must not use such information for personal advantage. Paragraph 3(4) of the Members Code of Conduct places Members under an obligation to maintain the confidentiality of the Council's confidential information.

18. Gifts and Hospitality

- 18.1 Planning decisions can result in huge increases in the value of land and property, so the probity and integrity of Members and officers involved are vital to the maintenance of public confidence in the planning system.
- 18.2 The Members Code of Conduct requires Members to declare a personal interest and notify the Monitoring Officer of the receipt of any gifts or hospitality with a value exceeding £50, so that details of the person from whom the gift or hospitality was received can be recorded in the Member's Register of Interests). Members (and officers) involved in the planning system must not accept gifts, rewards, favours or hospitality from applicants, agents or third parties, as this may be interpreted as an improper inducement, intended to secure a particular planning decision.
- 18.3 The offer of a gift, or invitation, to a Member from any one involved in the planning process must always be reported to the Monitoring Officer of the Council. The offer of a gift or invitation to an officer will be entered into the Gifts and Hospitality Register.
- 18.4 It is necessary to minimise any social contacts with known developers, and to refrain from such contacts, when developments and applications are proposed, or when controversial decisions are likely to be needed. In addition, it may be appropriate, in these circumstances, to declare an interest in any submitted application.

19. Political Parties

- 19.1 As a general rule, party politics should have no place in the consideration of individual planning applications. [see also paragraph 7.10 above].

20. Complaints and Record Keeping

- 20.1 In accordance with the Council's published Complaints Procedure, which is available on the Council's web site , if a member of the public, or applicant, wishes to complain about the Council's treatment of an application, in the first instance they should write to the Council's Development Control Manager. The complaint will be acknowledged in writing and will be investigated as quickly as possible; a written reply will be given.
- 20.2 If the complainant is not satisfied with the answer, the complaint should be referred to the Head of Planning & Economic Development, who will carry out an independent review of the matter and reply in writing to the complainant. Complainants who remain dissatisfied

will be advised of their right to refer the complaint to the Chief Executive for a further review and if still dissatisfied they will be advised of their right to submit their complaint to the Local Government Ombudsman.

- 20.3 So that complaints can be fully investigated and, in any case, as a matter of general good practice, record keeping will be complete and accurate. Every planning application file must contain an accurate account of events throughout its life, with particular care being taken with regard to those applications that are likely to be determined by officers under delegated authority. Such decisions should be as well documented and recorded as those taken by the Planning Committee.
- 20.4 A record of all written complaints received by the Planning Division will be maintained on a separate file, and will be monitored regularly.

21. Breach of Code

- 21.1 Any breach of this 'Code of Practice on Planning Matters' will be reported to the Council's Monitoring Officer, who will investigate the matter and take such action as necessary including, where necessary, referring the matter to the Audit and Standards Committee of the Council.

22. Summary/Conclusions

- 22.1 Serving as a Member of the Council, and as a Member of the Planning Committee, brings clear responsibilities to the whole community and not to any particular section of it. Similarly, the whole community has a right to expect Members, and the Council and Planning Committee, to consider matters transparently, impartially and fairly, having regard only to material planning considerations and disregarding any irrelevant considerations.
- 22.2 The same considerations set out in paragraph 22.1 above also apply to officers of the Council when they are determining planning applications.