



CHILTERN
District Council



CDC Governance and Electoral Arrangements Committee

Tuesday, 7th March, 2017

At

6.30 pm

**Large & Small Committee Room, King George V House, King George V
Road, Amersham**

**Appendix 1: Code on Gifts & Hospitality and Protocol on
Member/Officer Relations**

**Appendix 2: Code of Practice on Planning Matters &
Protocol on Speaking at Planning Committee**

APPENDIX 1**SECTION B – PROTOCOL FOR MEMBERS RELATING TO GIFTS AND HOSPITALITY-CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS RELATING TO GIFTS AND HOSPITALITY****1. INTRODUCTION**

1.1 The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest and not for personal advantage. The principles of conduct in public life require all Councillors to act with openness, integrity and honesty.

1.2 A requirement to declare details of any person from whom Councillors receive the law on the acceptance of gifts and/or hospitality with an estimated value of £50 or more as a Personal Interest is set out in the Council's Code of Conduct. Failure to declare such details is a breach of the Code of Conduct and could lead to a formal complaint being made against the Councillor concerned.

1.3 for Furthermore, the Bribery Act 2010 makes it a criminal offence to request, agree to receive or accept a bribe and defines corruption as the dishonest influencing of actions or decisions. The corrupt acceptance of a gift or hospitality can lead to an unlimited fine or up to 10 years' imprisonment.

Elected and Co-opted Members and in the Prevention of Corruption Acts. These requirements are supplemented by this Code, adopted by the Council to provide a clear set of rules for the protection of both Councillors and the Council. Acceptance of a gift or hospitality in breach of the Code of Conduct for Elected and Co-opted Members, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.

2. AIMS OF THE PROTOCOLCODE

2.1 This ProtocolCode of Conduct sets out:

- the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;
- a procedure for declaring any gift or hospitality which you receive and in certain circumstances accounting to the Council for gifts received;
- a procedure for accounting to the Council for any gift intended for the Council

3. LIMITS OF THE PROTOCOLCODE

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3.1 This ~~ProtocolCode~~ does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council.

4. **CONSEQUENCE OF BREACHING THE ~~PROTOCOLCODE~~**

4.1 If you do not abide by this ~~ProtocolCode of Good Practice~~, you may put yourself at risk of ~~either~~ being named in a report made to the ~~Audit and Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards Committee.~~

4.2 If you have any doubts about the application of this ~~ProtocolCode~~ to your own circumstances you should seek advice from the Monitoring Officer or Deputy Monitoring Officer.

5. **GENERAL PRINCIPLES**

5.1 In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

5.2 **Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

5.3 As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

5.4 The ~~Bribery Act 2010 Public Bodies (Corrupt Offences) Act 1889~~ provides that if you ~~request, agree to receive or accept a financial or other advantage intending that, in consequence, a function of a public nature should be performed improperly (whether by you or another person)any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned,~~ you commit a criminal offence carrying a maximum term of imprisonment of ~~107~~ years. ~~The Act defines improper performance as acting in breach of trust or failing to act either in good faith or impartially.~~

5.5 Further, the Council's Code of Conduct for ~~Elected and Co-opted~~ Members provides that you must act in the public interest ~~and not for personal advantage and must not conduct yourself in a manner which is likely to bring the Council into disrepute, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.~~

5.6 **You should only accept a gift or hospitality if there is a commensurate benefit to the Council.**

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- 5.7 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
- 5.8 Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and the district at a meeting. Acceptance of a gift is much less likely to confer such an advantage. Therefore, unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit. In that case it should be declined.
- 5.9 As set out above, the Council's Code of Conduct ~~for Elected and Co-opted~~ Members provides that you must not use your position for your own personal advantage which would include improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit ~~of~~ the Council, ~~would be a breach of the Code.~~
- 5.10 **Never accept a gift or hospitality if acceptance might be open to misinterpretation.**
- 5.11 The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
- 5.12 Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
- 1) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
 - 2) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
 - 3) funding decisions, when the Council is determining a grant application by any person or organisation.
- 5.13 **Never accept a gift or hospitality which puts you under an improper obligation.**
- 5.14 Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to

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persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

5.15 Never solicit a gift or hospitality.

5.16. You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this [Protocol Code](#). You should also take care to avoid giving any indication that you might be open to such any improper offer.

6. CONSENT REGIMES

6.1 General Consent Provisions

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- 1) civic hospitality provided by another public authority
- 2) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- 3) tickets for sporting, cultural and entertainment events but only if these are sponsored by the Council
- 4) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- 5) a modest alcoholic or soft drink on the occasion of an accidental social meeting with an employee of a contractor or party with whom you have done business on behalf of the Council. In such cases, you should make reasonable efforts to return the offer where this is practicable
- 6) a modest working lunch not exceeding £15 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection and where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £15 a head
- 7) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to that authority

- 8) hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit
- 9) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure:
 - (i) The Councillor must, as soon as practicable after the receipt of the gift, and in any event within 28 days pass it to the Monitoring Officer together with written statement setting out the information described in Paragraphs 6.2 below. [The Form attached to this [ProtocolCode](#) as Appendix 2 can be used for this purpose]
 - (ii) The Monitoring Officer will write to the person or organisation making the gift thanking them on your behalf for it and informing them that you have donated the gift to a Charity of your choice on whose behalf it will be raffled or otherwise disposed of in due course.

6.2 Special Consent Provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

- 1) You must make an application in writing to the Monitoring Officer, setting out:
 - (i) the nature and your estimate of the market value of the gift or hospitality
 - (ii) who the invitation or offer has been made by or on behalf of
 - (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
 - (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
 - (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

[You may use the Special Consent Application Form attached to this [ProtocolCode](#) as Appendix 1]

- 2) You must not accept the gift or hospitality until you have received the appropriate consent.
- 3) If consent is refused you will decline the gift or hospitality and confirm to the Monitoring Officer that you have done so.
- 4) The Monitoring Officer will record all applications received under this part of the ProtocolCode and all refusal made or consents granted in a register kept for that purpose which shall be open to public inspection. [Note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 7, below]
- 5) If consent is granted and the offer is a gift, you will accept it for and on behalf of Chiltern District Council and hand it to the Monitoring Officer who shall immediately take the following steps:
 - (i) issue you with a receipt for the gift;
 - (ii) add the gift to the Councils inventory; and
 - (iii) consult with the Chief Financial Officer and Chairman of the Council as to what measures are appropriate for the protection and/or use of the gift to ensure that it is properly applied for the benefit of the Council.

7. DECLARATION OF GIFTS

- 7.1 Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of ~~£5025~~ or greater, regardless of whether you are authorised to accept such gift or hospitality by the General or Specific Consent provisions set out in Paragraph 2 above, you must, as soon as possible after receipt of the gift or hospitality, and in any event within 28 days of receipt notify the Monitoring Officer by email to monitoringofficer@chiltern.gov.uk and make an addition to your Members Register of Personal Interests to record details of the person from whom the gift or hospitality was received, and file same with the Monitoring Officer. The Register of Interests is available for public inspection and published on the Council's website. Monitoring Officer will retain a copy in a register which will be available for public inspection

~~*Rolling register re. gifts is 3 years.~~

[NB Even if the value of the gift or hospitality is less than ~~£5025~~, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary disclosure in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.]

8. GIFTS TO THE COUNCIL

- 8.1 Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works

or sponsorship of a function which is organised or supported by the Council. The following principles will govern the issue of gifts to the Council:-

- 1) You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of musical and theatrical performances and developers' contributions under Section 106 Agreements.
- 2) If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation and whether there is a real benefit to the Council which would outweigh any dis-benefits).
- 3) You do not have delegated authority to accept a gift on behalf of the Council and so you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation.
- 4) The Monitoring Officer will write back to the person or organisation making the offer to record the acceptance or non-acceptance of the gift and if accepted, record the gift for audit purposes by adding it to an inventory and consult with the Chief Financial Officer and Chairman of the Council to ensure that the gift is properly applied for the benefit of the Council.
- 5) If at any time you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer.

9 DEFINITIONS

- 1) "Gift or hospitality" includes any:
 - (i) the free gift of any goods or services
 - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
 - (iii) the opportunity to obtain any goods or services which are not available to the general public
 - (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- 2) References to the "value" or "cost" of any gift or hospitality are references to the higher of:
 - (i) your estimate of the cost to the person or organisation of providing the gift or consideration
 - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially

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to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

APPENDIX 1

Application for a Special Consent to accept a Gift or Hospitality not authorised by the General Consent Provisions of the ~~Protocol For Code of Conduct For Elected and Co-opted~~ Members Relating to Gifts and Hospitality

Name	
Ward	
What is the nature of the gift or hospitality offered or invited?	
What is your best estimate of its market value or cost?	
Please give details of the person or organisation who has made the offer or invitation?	
What connection do you have with the person or organisation making the offer?	
So far as you are aware, please give details of any work, permission, concession or facility that the person or organisation making the offer or invitation has sought or is seeking from the Council.	
Are there any special circumstances that might justify the acceptance of the gift or hospitality offered or invited?	
<p>DECLARATION</p> <p>I understand that if this application relates to the offer of a gift and the Monitoring Officer gives his consent to my acceptance of it, the gift will be belong to Chiltern District Council and I will account to the Monitoring Officer for it in accordance with Paragraph 2 (2) (e) of the ProtocolCode of Conduct relating to Gifts and Hospitality</p> <p>Signed..... Date</p>	

APPENDIX 2

Declaration of Receipt of Gifts or Hospitality by Councillors

Name	
Ward	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Protocol Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed	Date

SECTION D PROTOCOL ON MEMBER/OFFICER RELATIONS

The following Code of Practice was agreed by the Council on 22 May 2001. It is intended as a framework to cover Member and Officer relations and encourage good practice throughout the Council.

1. INTRODUCTION

- 1.1 The protocol is intended to be a framework to cover member and officer relations with one another and encourage good practice throughout the Council. It seeks to offer guidance and promote greater clarity and certainty but given the variety and complexity of situations involved, does not seek to be either prescriptive or comprehensive. If the Protocol is followed it should ensure that members receive objective and impartial advice and that employees are protected from accusations of bias and any undue influence from members. It also seeks to reflect the principles underlying the respective codes of conduct which apply to members and employees.
- 1.2 Members and officers should at all times treat each other with mutual respect and courtesy [[having regard to the Council's agreed Values and Behaviours]. Close working relationships will obviously occur between senior members and employees involved in providing the service for which members are responsible. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employees ability to deal impartially with other members and other party groups. Close personal friendship/relations should be avoided as they are likely to prove awkward for both fellow officers and members and are also likely to represent a personal or prejudicial interest of the member when the officer is involved in a matter which comes before the member for consideration/a decision.
- 1.3 If an employee is or becomes aware of any member action which conflicts with the principles of this Protocol he/she should be at liberty to make their Head of Service, Director or Chief Executive aware of the actions/s. In the event of a member having any reason to complaint about or doubt officers conduct or opinion the member should refer such complaint to the officer's Director or the Chief Executive as the member sees fit and should not seek to challenge the individual officer. The same applies should a member receive any complaint in relation to an officer from a member of the public.
- 1.4 This protocol should be read in conjunction with the Planning Code of Good Practice and the Protocol on Gifts and Hospitality and any other relevant policies of the Council, for example the Confidential Reporting Policy, the Whistleblowing Policy for Members and the Dignity at Work Policy.

2. THE CHIEF EXECUTIVE

- 1.1. The Chief Executive is the Head of Paid Service of the Council as a whole and his overriding responsibility is to the Council, and not to any political group.

- 1.2 The Chief Executive is nevertheless expected to work closely with the Cabinet for the time being and give them information, assistance and advice. Subject to remaining politically neutral, he may develop a special relationship with the Cabinet and will not without the consent of the Cabinet Leader, disclose to any of the political groups on the Council any matters discussed with the Cabinet.
- 1.3. The political neutrality of the Chief Executive should be respected by everyone. He should not be asked to play any role or undertake any task which is likely to prejudice that neutrality, or make it difficult for him to serve a different Cabinet or majority political party at some future time.
- 1.4. All Members of the Council have a right of access to the Chief Executive. Where a Member requires some information and the Chief Executive considers the request reasonable and appropriate, the information will be provided as soon as possible. In other circumstances, the Chief Executive shall consult with the Chairman of the Council and the Cabinet Leader on the action to be taken.
- 1.5. The Chief Executive is free to give advice on a confidential basis about procedural matters to any Member. The Chief Executive is entitled to seek the advice of Monitoring Officer and the Chairman of the Council on procedural matters before responding to a request from a Councillor, although in such circumstances the Councillor would be informed first. It may be necessary to require the Member to keep the advice/information confidential.
- 1.6. The Chief Executive has a responsibility to ensure the effective scrutiny of the Council's programmes, projects and proposals. He will be expected to develop a working relationship with the Chairmen of the Overview Committees, particularly in providing support for the work programmes of the Committees, including the attendance of Officers and the provision of professional and technical advice.
- 1.7 The following principles govern the relationship between the Chief Executive and the various political groups on the Council:-
 - 1) It is proper for the Chief Executive to develop a working relationship with each Group on the Council;
 - 2) Except for matters referred to in Clause 1.2 above, the Chief Executive is free to provide information and answer procedural inquiries to Members of any Group;
 - 3) Matters discussed with any Group will not without their consent be disclosed to the Cabinet or any other political group.
 - 4) As a consequence of the duty owed by the Chief Executive to the Council as a whole, he will draw the attention of the Cabinet to any case where consideration should, in his opinion, be given to affording information, representation, or consultation to any political or other group.

- 1.8 In applying these principles to any given situation, the Chief Executive will have regard to the perceived customs of the Council, to any established traditions, and the statutory and procedural rules set out in the Council's Constitution governing the rights of Minority Groups to information, consultation, or representation.
- 1.9. If the Chief Executive attends a meeting of any party political group, he will inform the leadership of the other Groups on the Council. He will ensure that the part he plays in the proceedings is consistent with his political neutrality. He will not attend political group meetings at which there are persons present who are neither elected Members nor Officers of the Council. At such meetings, Members will be expected to abide by normal declarations of interest rules.
- 1.10 In the event that a Cabinet comprises members of more than one political group, the principles set out above still apply. Officers are entitled to assume information can and should be shared within the Cabinet.

2. DIRECTORS AND HEADS OF SERVICE

- 2.1. The foregoing principles apply similarly to the Directors and all Heads of Service, who shall act under the general direction and after seeking advice of the Chief Executive as statutory Head of Paid Service. The Directors will be expected to develop a close working relationship with the Cabinet and attend its meetings. Heads of Service will attend as required. The Directors and all Heads of Service will be expected to attend, as required, meetings of the Overview Committees and full Council and any of its Committees or Sub-Committees.

3. CHIEF FINANCE OFFICER AND MONITORING OFFICER

- 3.1 Special responsibilities attach to the following statutory roles: -

- 1) Chief Finance Officer: in this Council, the ~~Director of Resources~~ Head of Financial Services; and
- 2) Monitoring Officer: in this Council, Head of Legal and Democratic Services ~~(special arrangements 31.03.09 in absence of Head of Legal Services)~~.

- 3.2 The special roles of the Chief Finance Officer and the Monitoring Officer are described in Articles 11.3 and 11.4 of this Constitution.

4. OTHER EMPLOYEES

- 4.1 Although the considerations applicable to the Chief Executive, the Directors and Heads of Service affect other employees at different levels, the most senior employees, and those additionally closely associated with the political processes, are

statutorily politically restricted and should be politically neutral. These other employees may attend meetings of full Council, the Cabinet or any of the Committees and Sub-Committees as the Chief Executive, or in ~~their~~ absence the Director~~s~~, shall determine.

4.2 It is also the duty of the Chief Executive, Director~~s~~ and Heads of Service to ensure that the work and responses of employees are conducive to, and not undermining of, the foregoing general principles. They are entitled to expect Members to respect political neutrality and the duties and limitations of employees.

4.3 It is also the duty of the Chief Executive, Director~~s~~ and Heads of Service to arrange matters so that their employees properly understand the roles of Members and employees and the Council's approach to the relations between them. They are also entitled to expect Members to respect the degree of seniority of employees with whom they have dealings and the fact that, while those employees owe duties to the Council as their employer, they are first answerable to their line manager and their respective Head of Service, the Director~~s~~ or the Chief Executive and not to any individual Member.

~~NB: For Director read Director of Planning and the Environment.~~

APPENDIX 2**SECTION C - CODE OF PRACTICE ON PLANNING MATTERS (MAY 2017/APRIL 2007)****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 Sustainable Development or other authorised council officers ~~Director of Planning and the Environment or the Head of Planning Services 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 ~~Local Government Association~~ 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 requires the Council to determine applications in accordance with the Development Plan unless there are material considerations that indicate lead it to act 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~~ the Ombudsman has made it clear that Members have a duty to disassociate themselves from all processing of that application, ~~a view supported by Standards for England~~. This disassociation should also apply to discussions and to site visits.
Note: Para ~~912~~(2) of the Code – which allows Members with a Prejudicial Interest to speak at Planning Committee still participate 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 well-being or the financial position or well being 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 prejudicial~~ interest - possible ~~prosecution and suspension or~~ 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 personal only or personal and prejudicial~~ by declaring a ~~pecuniary prejudicial~~ 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 Sustainable Development, or Development Control Manager~~Director of Planning and the Environment, Head of Planning Services~~ or Senior Principal 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, Standards for England and 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, or by the~~ 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 Sustainable Development Director of Planning and the Environment~~ 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 Sustainable Development or another authorised officer~~Director of Planning and the Environment or Head of Planning Services.~~
- 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~~Circular 19/92~~, 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~~Audit Commission. It is also encouraged by the Local Government Association and the National Planning Forum.~~ 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.

PLANNING COMMITTEE PROCEDURES

- 14.1 The Planning Committee normally meets on a Thursday evening, every three 4 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~~ Members of on the reports and recommendations, to advise of any verbal updating at the Committee meeting that will be necessary, to afford the ~~m~~ Members an opportunity to give notice to the officers of any potential problems, and ~~for the Members~~ 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 Sustainable Development~~~~Director of Planning and the Environment and~~~~Head of Planning Services~~ 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 Sustainable Development~~~~Director of Planning and the Environment and~~~~Head of Planning Services~~ will occasionally refer an application to the Committee for decision, and will also use ~~his/her~~~~their~~ 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(4a) 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 ~~Although~~ ~~It~~ 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 £5025, so that details of the person from whom the gift or hospitality was received can be recorded in the Member's Register of ~~gifts and hospitality (and on the Register of Public~~ 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~~~~Director of Planning and the Environment~~ or to the Head of Planning Services. 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 Sustainable Development~~~~Council's Chief Executive~~, 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 also 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.

~~May 2017/April 2007~~

~~(Reference to SBE—now SfE—and legislation (only) updated March 2010).~~

Part 5 of the Constitution**Procedure for Speaking at Planning Committee****1 REPRESENTATIONS TO THE PLANNING COMMITTEE BY PARISH COUNCILS**

When a planning application proposes development within a particular Town or Parish Council's administrative area then that Town or Parish Council may make representations to the Planning Committee immediately prior to the Committee's consideration of that application for the first time, subject to compliance with the following conditions:-

- 1) By not later than 1 July in each year (excluding the year of inception) the proper officer has received notification in writing or by electronic means of the identity of the elected member of the relevant Town or Parish (hereinafter called "the Authorised Representative") who is authorised by that Town or Parish Council to make representations to the Planning Committee on its behalf.
- 2) The notification to the proper officer has included details of the identity of such other elected member of the Town or Parish Council (hereinafter called "the Authorised Alternate") who shall be entitled to make representations to the Planning Committee in the absence of the Authorised Representative;
- 3) Neither the Authorised Representative or the Authorised Alternate are also elected or co-opted members of the Council;
- 4) The Council has already received written representations from the relevant Town or Parish Council on the relevant planning application at the formal consultation stage;
- 5) Notice of each planning application on which the relevant Town or Parish Council intends to make representations has been given to the proper officer in writing or by electronic means at least three working days prior to the meeting of the Planning Committee at which the relevant application is to be considered (including the date of the meeting itself);
- 6) Representations are limited to a maximum of three minutes on any planning application and confined to an explanation of the written representations already made at the formal consultation stage. No questions will be permitted and the Planning Committee will not engage in a debate although the

Chairman of the Planning Committee may seek clarification of any aspect of the representation and may grant an extension of time not exceeding one minute for that purpose. That representations have been made will be recorded in the minutes of the meeting of the Committee

The relevant Town or Parish Council may change its Authorised Representative or Authorised Alternate by giving the Proper Officer notice in writing or by electronic means at any time enclosing a duly authenticated resolution of the Town or Parish Council specifying the identity of the new representative, such notice to become effective seven days after it has been received.

Note – the Proper Officer for the purposes of this Rule is the Head of Sustainable Development

2. REPRESENTATIONS TO THE PLANNING COMMITTEE BY DISTRICT COUNCILLORS WHO ARE NOT MEMBERS OF THE PLANNING COMMITTEE

Any District Councillor who is not a member of Planning Committee may attend and make representations to the Planning Committee immediately prior to the Committee's consideration of that application for the first time (but not vote) subject to compliance with the following conditions:-

- 1) Notice that the District Councillor intends to make representations has been given to the Chairman/Proper Officer;
- 2) Representations are limited to a maximum of five minutes on any planning application – any extension at the Chairman's discretion. That representations have been made will be recorded in the minutes of the meeting of the Committee.

Note – the Proper Officer for the purposes of this Rule is the Head of Sustainable Development

3 REPRESENTATIONS TO THE PLANNING COMMITTEE BY MEMBERS OF THE PUBLIC

In addition to the permissive rights conferred on representatives of Town and Parish Councils by Rule 20 of these Procedure Rules, up to two members of the public (for the avoidance of doubt excluding all Town and Parish Councillors) shall also be permitted to make representations to the Planning Committee immediately prior to the consideration of an application for planning permission (whether in outline or in detail) PROVIDED that the person wishing to make representations (in this Rule called "the Representor")

- 1) has already made written representations concerning the application on which

he intends to make representations prior to the publication of the Agenda for the meeting on which that application is to be considered by the Planning Committee for the first time; and

- 2) intends to represent either the supporters of, or the objectors to, that application; and
- 3) has given notice to, the proper officer in writing or by electronic means that he is either a supporter of or an objector to the application and of his intention to make representations thereon; and
- 4) the notice referred to in paragraph 3) above is received by the proper officer or such other person as he shall nominate after the date of publication of the Agenda referred to in paragraph 1) above but not later than three working days prior to the date of the meeting of the Planning Committee (including the date of the meeting itself); and
- 5) no other person has already given a valid notice to the proper officer disclosing an intention to represent the same person(s) or interest(s) as the Representor (meaning that only one supporter of and one objector to the application shall be permitted to make representations to the Planning Committee)

Representations to the Planning Committee shall be limited to a maximum of three minutes and confined to an explanation of the written representations referred to in paragraph 1) above. Questions shall not be permitted and the Planning Committee will not engage in a debate although the Chairman of the Planning Committee may seek clarification of any aspect of the representation and may grant an extension of time not exceeding one minute for that purpose. That representations have been made will be recorded in the minutes of the meeting of the Committee.

Note

The proper officer for the purpose of this Rule is the Head of Sustainable Development.]