

# **D. Members' Planning Code of Good Practice**

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## Background

This Code is based on the model adopted by the Association of Council Secretaries and Solicitors (ACSeS). The drafting of the model code was subject to consultation and comment from a number of other local authorities through the machinery of ACSeS, the Local Government Ombudsman and from firms of solicitors or Counsel acting on their behalf. This Code of Good Practice takes into account the new interests Disclosable Pecuniary Interests (DPI's) and Other Interests adopted by this Council on 31 July 2012. The DPI's and Other Interests have replaced the personal and prejudicial interests.

The Localism Act 2011 abolished the Standards for England, the standards committees of local authorities and the power of the First-tier Tribunal (Local Government Standards in England) relating to local government standards for England. The Local Authorities (Model Code of Conduct) Order 2007 was revoked on 1 July 2012.

Although the ten general principles of conduct were revoked in England on 1 July 2012, the Localism Act 2011 requires a relevant authority's code of conduct to be consistent with the Seven Principles of Public Life set out in the First Report of the Nolan Committee on Standards in Public Life. These are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

## Introduction

**The aim of this code of good practice:** to ensure that in the planning process decisions are seen to be well founded and not biased or partial in any way.

**The key purpose of Planning:** to manage development in the public interest.

**Your role as a Member making Planning Decisions:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning decisions on the Planning Committee, Regulatory and Appeals Committee or as the Standing Deputy at either of the Committees. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when

involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**The role of Members of the Planning Committee is:** to make decisions openly, impartially, with sound judgement, for justifiable reasons in accordance with the provisions of the development plan, unless material considerations indicate otherwise. This will involve balancing :

- competing needs and interests of individual constituents and the community, with
- the need to maintain consistency of approach and an ethic of impartial decision-making on what can be highly controversial proposals.

**Application of this Code of Good Practice to members who do not sit on Planning Committee:** The rules on declarations of interest, gifts and hospitality, site visits, relations with officers, negotiations with applicants/developers and requests for applications to go to Committee apply to all members of the Council, whether or not they sit on these decision-making committees. But otherwise this Code does not apply to them, for example when carrying out their role as local member representing their constituents' views at Planning Committee.

**If you have any doubts about the application of this Code of Good Practice to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

## **1. Relationship to the Members' Code of Conduct**

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

- yourself at risk either of being prosecuted for failure to comply with the Disclosable Pecuniary Interests rules, or being subject to a complaint for failure to comply with the Council's Code of Conduct.

## **2. Development Proposals and Disclosable Pecuniary Interests under the Code of Conduct**

- 2.1 The Disclosable Pecuniary Interests which members are required to register are now defined by the Disclosable Pecuniary Interests Regulations 2012, and the list of definitions is appended to the Code of Conduct.
- 2.2 You should regard yourself as having a Disclosable Pecuniary Interest in an item of business which relates to the matter in which you have a Disclosable Pecuniary Interest.
- 2.3 **Do** disclose a Disclosable Pecuniary Interest in an item of business, to the meeting before or at the start of the consideration on that matter, or as soon as it is apparent, and you should not participate in the discussion of, or vote, on the item of business. Failure to comply with these requirements may constitute a criminal offence. The Council's Procedural Standing Orders also require you to withdraw from the room in which the meeting is being held for the duration of consideration of the item of business.
- 2.4 **Do** register a Disclosable Pecuniary Interest in the matter, where you have not previously done so. You are now required to do so within 28 days of becoming aware of the interest, or of the date when the agenda for the meeting was sent out to members, whichever is the earlier.

## **3. Other Interests under the Code of Conduct**

- 3.1 The Council has adopted a Members' Code of Conduct which requires members to declare a 'Non-Disclosable Pecuniary Interests and Non-Pecuniary Interests' as defined in that Code (the full requirements of the Members' Code of Conduct are set out in Part 5 of the Council's Constitution). For ease of reference, these interests are referred to as "Other Interests" in this Guidance Note.
- 3.2 A member will have an "Other Interest" in an item of business where:
  - a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of

the member, or of a member of your family or a person with whom you have a close association to a greater extent than it would have on the majority if the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area; or

- it relates to or is likely to affect any of the interests listed in the Appendix to the Code of Conduct, but in respect of a member of your family or a person with whom you have a close association,

and that interest is not a Disclosable Pecuniary Interest.

- 3.3 **Do** make a verbal declaration of the existence and nature of that interest where you attend a meeting at which you have an "Other Interest" in an item of business, at or before the consideration of the item of business or as soon as the interest becomes apparent.

### **Interests in relation to Planning Applications**

- 3.4 **Do** contact the case officer urgently as soon as you realise after you have submitted comments as a Ward Member or taken some other action that you have a Disclosable Pecuniary Interest or Other Interests.

- 3.5 **Don't** exercise the powers of call-in in respect of an application where you have a Disclosable Pecuniary Interest or Other Interests. The Ombudsman has previously advised that the Council is at risk of a finding of maladministration if a Member who has an interest in an application exercises any of the powers or privileges accorded to Members in respect of that application. There may be a general perception that calling-in a delegated item to Planning Committee ensures that the public will conclude that everything is 'above board'. The Ombudsman does not share that view.

- 3.6 If you do find yourself having to disassociate yourself from an application, you may well feel that your constituents have been disenfranchised. This does not entitle you to set aside this advice. In these cases it is the Ombudsman's view that:

- you should invite a Member from the same ward or from a neighbouring ward to take an interest in the matter
- constituents who approach you should be invited to contact that other Member or any other Member of the deciding body

- you should avoid expressing any view about the application to other Members (save as set out below) and you must never communicate to other Members of the deciding meeting what you would have said had you been able to do so

3.7 Having said this, in some circumstances it may be appropriate to comment on a planning application in your private capacity. You should avoid doing this if at all possible but in some circumstances it is unavoidable. If this is the case your comments can be reported simply, as third party comments rather than as Ward Member comments, but to ensure that your comments are treated properly only write on plain notepaper, never headed Councillor notepaper, and try to avoid contact with the case officer. If you do need to contact the case officer, please remember to advise him/her that you do have an interest and are calling/visiting purely as an ordinary resident.

#### **4. Predetermination and Bias**

4.1 Section 25 of the Localism Act 2011 clarifies the rule on predetermination, which has been developed by the Courts to ensure that councillors participated in meetings with an open mind. Section 25(1) applies if there is an issue about the validity of a decision, as a result of an “allegation of bias or predetermination, or otherwise” and “it is relevant to that issue whether the decision maker (or any of the decision makers) had or appeared to have had a closed mind (to any extent) when making the decision”.

4.2 An elected or co-opted member is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –

- The decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took or would or might take, in relation to a matter, and
- The matter was relevant to the decision (Section 25(2))

This makes it clear that councillors are entitled to campaign on issues and express views etc. without disqualifying themselves from decision-making PROVIDED they can demonstrate absence of "bias" or "predetermination". The test for bias is “to a fair minded observer, who is suitably informed, and who having considered the facts would conclude that there was a real possibility of bias”.

- 4.3 Predisposition is having a tendency towards, or likelihood of, deciding a matter in a particular way (i.e. I've got an opinion on this....) but with the mind left completely open to the possibility of deciding otherwise in the course of the decision process e.g. by being influenced by the debate. Having an open mind or a predisposition is lawful.
- 4.4 **Do** withdraw and not participate further in the planning application where you have an Other Interest mentioned above in Paragraph 3 and you have predetermined the application or there is a perceived appearance of bias.
- 4.5 **Don't** prevent your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

**Otherwise** taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- 4.6 **Do** be aware that you should not participate where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the Cabinet and the Planning Committee, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 4.7 **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district and county councillor), provided:

4.7.1 you make it clear to the consultee body that:

- your views are expressed on the limited information before you only;
- you must reserve judgement and the independence to make up your own mind on each separate proposal when it comes before the Planning Committee, based on your overriding duty to the whole community and the role of making decisions in accordance with the development plan unless material planning considerations indicate otherwise and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and

4.7.2 you disclose the Other Interest regarding your membership or role when the Committee comes to consider the proposal.

4.8 **Don't** speak and vote on a proposal where there is a danger of predetermination or bias. You should withdraw yourself before the application is considered at the Planning Committee.

4.9 **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

4.10 Provided that you do not have a Disclosable Pecuniary Interest, you may attend as a Ward Member any meeting to make a statement on behalf of the Member's constituents in the case of any item under discussion which directly affects the Member's ward, with prior consent of the Chairman of the Committee. The Member (unless attending as a Standing Deputy) may not vote on the matter in accordance with the Council's Procedural Standing Orders.

## **5. Contact with Applicants, Developers and Objectors**

5.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.



- 5.2 **Do** draw attention to the Council's agreed Statement of Community Involvement and protocol for engagement with applicants' developers and the public.
- 5.3 **Do** discuss any requests for meetings with the Development Manager/Head of Planning and Sustainability who can advise on appropriate steps. Any meetings should have a record made.
- 5.4 **Do** otherwise:
- follow the rules on lobbying in paragraph 8 below;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Manager of Development/Head of Planning and Sustainability any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

**In addition in respect of presentations by applicants/developers:**

- 5.5 **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers and/or it is open to the public as referred to in the Statement of Community Involvement.
- 5.6 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 5.7 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out under delegated powers or by the appropriate Committee planning authority.
- 5.8 **Do** be aware that a presentation is a form of lobbying and you must not express any strong view on a proposal which indicates a closed mind or state how you or other Members might vote.

## **6. Guidelines on Pre-Decision Discussions**

6.1 **Do** become involved in the pre-application process as set out in the adopted Statement of Community Involvement. However members **must not**:

- Be drawn into, or actively promote, direct negotiations with a developer to seek to amend/influence the development proposal (unless specifically authorised to do so by the Planning Committee – see Appendix 1 Members and Officer Involvement in the pre planning application process: Guidance Note).
- Put pressure directly or indirectly on any Officer to follow a particular course of action with regard to a development proposal, planning (or other) application or to disclose any pre-application requests or responses (unless agreed with all parties that it can be released).
- Put pressure directly or indirectly on members of the decision-making body to follow a particular course of action with regard to a development proposal

6.2 Members on the decision making body (Planning Committee, Regulatory and Appeal Committee including standing deputies) should take extreme care:

- When speaking to developers or objectors not to express views about the acceptability or otherwise of a proposal, which indicates a closed mind.
- To remain open minded about the development proposal and only reach a view at the time of the decision-making on the application having read and considered the planning officer's report and all representations.
- To avoid organising support for or against a planning application.
- To avoid any public statements on applications.

## **7. Lobbying of Members**

7.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, the Council has an agreed protocol for involvement of members and stakeholders in the planning process (see Appendix 1) and it may prejudice your impartiality and therefore your ability to participate in the Committee's decision

making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

- 7.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 7.3 **Do** copy or pass on any lobbying correspondence you receive to the Development Manager/Head of Planning and Sustainability at the earliest opportunity.
- 7.4 **Do** promptly refer to the Development Manager/Head of Planning and Sustainability any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 7.5 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 7.6 **Do** note that, unless you have a Disclosable Pecuniary Interest, you will not have predetermined or breached this Planning Code of Good Practice through:
- listening to or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.
- 7.7 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared

as soon as possible and remember to register the gift or hospitality where its value is over £50 (in accordance with the Council's Code of Conduct).

## **8. Lobbying by Members**

- 8.1 As a general rule, party politics should have no place in the consideration of individual planning applications. The views of your party may be a material consideration, but should never dictate the outcome or replace your personal judgment on an application.
- 8.2 **Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society.
- 8.3 **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby, to promote or oppose planning proposals. If you do, you will have predetermined your position and have to withdraw.
- 8.4 **Don't** apply pressure by lobbying fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. Making Members aware of views and concerns can be done without applying pressure.
- 8.5 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## **9. Site Visits**

- 9.1 **Do** try to attend site visits organised by the Council where possible.
- 9.2 **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.

- 9.3 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site circumstances relative to the proposal.
- 9.4 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 9.5 **Don't** request a Committee site visit unless you feel it is strictly necessary because:
- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- 9.6 **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose comments must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 9.7 **Don't** express opinions or views to anyone whilst on the site visit.
- 9.8 **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
- you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the Development Manager/Head of Planning and Sustainability about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## **10. Public Speaking at Meetings**

- 10.1 Public speaking as currently constituted at this Council allows an objector to an application which is recommended for approval the opportunity to address the Planning Committee. The Ombudsman has made it clear that if you have declared an interest as a Member it is highly inappropriate for you to attempt to exercise your right as an objector to address the Committee as this completely defeats the object of the declaration of interest.

- 10.2 Even more so, under no circumstances should you exercise a right of reply if you are an applicant. Instead request that a third party acts on your behalf (professionally or as a friend). Do not act professionally or as a friend on behalf of your applicant.
- 10.3 **Do** ensure that you comply with the Council's procedures in respect of public speaking.
- 10.4 As a Member of Planning Committee/ Regulatory & Appeals Committee **don't** allow members of the public or Ward Members to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.

## **11. Officers**

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

## **12. Decision Making**

- 12.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, your planning reasons are explained (which will be referred to in the report to the Committee).

- 12.2 **Do** come to meetings with an open mind and demonstrate that you are open minded.
- 12.3 **Do** comply with section 54A of the Town and Country Planning Act 1990 which requires decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 12.4 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 12.5 **Do** clearly state all the reasons for requesting a Committee's decision to defer or refuse any proposal.
- 12.6 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/motion. These reasons must be given prior to the vote and be recorded. Be aware that the Council will have to justify the resulting decision by giving evidence in the event of any challenge/planning appeal and you may be requested to contribute.

### **13. Applications by Members and Officers**

- 13.1 Nothing in this Practice Note should be taken to prevent a member or an officer of the Council from making an application for planning permission in their personal capacity. Where a member or an officer does make such a planning application, it will be dealt with in accordance with these provisions, which follow the recommendations of the Local Government Association.
- 13.2 **Do** make it clear in the application if you or your spouse is making an application, or that a close relative is making one. Equally, if you act professionally as an agent for an applicant or objector this should be declared in the same way.
- 13.3 If the application is one which would normally be dealt with under delegated powers the Head of Planning and Sustainability may

decline the delegation and the matter submitted to Planning Committee for determination.

- 13.4 Officers will submit a draft report and the file to the Monitoring Officer prior to the matter being included on the Planning Committee agenda. The Monitoring Officer will certify that the application has been properly dealt with and the report will show this. If it cannot be so certified, the matter will be the subject of a Monitoring Officer's report to full Council prior to any decision being made. You will be asked to consent to the eight week determination period being extended to allow for this extra procedure to take place.
- 13.5 This Good Practice Note equally applies to applications submitted through or which affect companies which are owned by a Councillor or Officer. This includes companies in which a Member or Officer has a controlling or significant interest. You are reminded of the rules regarding interests as well. Nothing in this guidance overrides or alters that.
- 13.6 Applications which affect an Officer (as opposed to a Member) will be dealt with in the usual manner. Any letter of representation should identify you as an Officer of the Council or, if submitted by a close family member or on behalf of a company in which you or your family have significant interests, identify that relationship. The file may be referred to the Monitoring Officer before a decision is made if there is a real potential for an allegation of improper influence. In such cases the Monitoring Officer will be asked to certify that the correct procedures have been followed and that all other matters have been dealt with properly. If the Monitoring Officer considers it appropriate, an otherwise delegated item may be submitted to Planning Committee for decision. This will be the norm when applications affect any Officer whose duties include direct involvement in the planning process.
- 13.7 Applications by or which affect Directors or the Monitoring Officer may be the subject of external review if the Chief Executive (after consultation with the Chairman of Council and all Group Leaders) considers it appropriate.

## **14. Training**

- 14.1 **Do** only participate in decision making at meetings dealing with planning matters if you have attended the mandatory planning training prescribed by the Council.



14.2 **Do** endeavour to attend any other specialised training sessions and planning events provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

14.3 **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

## **15. Conclusion**

At all times you must appreciate that as a Member of the Council in general and as a Member of the Planning Committee that you take on a heavy duty. As the Members' Planning Code of Good Practice points out, your duty is to the whole community and not to any section of it. By the same token, the whole community has a right to look to you and to the Council as a whole to consider matters dispassionately, having regard only to the relevant factors and disregarding irrelevant ones.

## APPENDIX

### Member and Officer Involvement in the pre planning application process

#### Introduction

This guidance sets out some general rules for Member and Officer involvement at the pre-application stage and builds on the Council's (updated) Statement of Community Involvement Document (SCI), adopted in December 2012. This provides a framework for promoting community involvement in development proposals. Further specific guidance is attached in the form of:

- **Annex 1: Members, stakeholders and the public: pre-application:** this sets out the types of consultation that can take place at the pre-application stage.
- **Annex 2: Pre-application Developer presentations to Members and Stakeholders:** this provides guidance on the form and content of such meetings.
- **Annex 3: Direct decision-making member involvement in negotiation;** this sets out when it may be appropriate for a Member to take part in negotiations on a planning application.

#### Codes of Conduct

Officers and Members' role in the pre-application process has to be guided by the published Codes of Conduct for Officers and Members.

#### Administration of pre-application process

Prospective developers are encouraged to enter into pre-application discussions with Officers and Members particularly for Tier 1 (District - wide significance) and Tier 2 (Neighbourhood significance) proposals.

There is a charging system for pre-application advice and a standard application form and information is available on the WDC web site. Pre – application enquiries that are received are validated, given a case number and allocated to an Officer to deal. The cases are considered as confidential matters and the pre-application request and response are not publicised or made available to Members or the public (unless the developer gives agreement). This is because at this stage the developer will often be exploring commercially sensitive ideas, sometimes on land not yet in their ownership.

The Planning Officer's response will draw attention to the need for the developer to engage in wider community involvement as part of the pre-application process under the terms of the SCI. The SCI includes the opportunity to involve Members in the process.

### **Some general rules on Member involvement**

Members are encouraged to become involved in the pre-application process, but following the advice which is set out in the main text of the Member's Planning Code of Good Practice.

### **Developers Responsibilities**

It is the developer's decision when to publicise their development proposal. The Council encourages the developer to carry out community consultation prior to the submission of an application – appropriate to the scale/ 'Tier' of the proposal (please refer to the Statement of Community Involvement). It is in a developers' interest to seek wider views at an early stage.

Developers are advised to:

- Follow the practice/ format set out in Appendix 2 for 'presentation' consultation events on Tier 1 and 2 proposals.
- Advise the planning case officer at least 2 weeks in advance of any consultation events for Tier 1 or 2 proposals so the case officer is able to publicise these through the WDC Weekly Planning Bulletin.
- Not make any special arrangements to exclusively target decision-making members directly or indirectly.
- Not seek to apply any pressure directly or indirectly or incentive on decision-making members to reach a particular conclusion.

If Officers consider that a developer is targeting members e.g. with an exclusive viewing of a development proposal in the absence of stakeholders, the public and officers, the officers will advise members not to attend the event.

### **Planning Officer's involvement**

Advice given by planning officers to developers and applicants with regards to their proposals shall not bind the Council to a decision. Officers may express a professional opinion but must not bind the Council to a decision until the final determination of the application.

## ANNEX 1: Members, stakeholders and the public: pre-application

The SCI sets out the methods of involvement as shown in the left hand column of the following table. Also set out is the role of developers, members and officers in this process. The involvement of Members at the pre-application stage can be of great benefit to the overall process and Members should feel confident to take part where appropriate. Further advice can be sought from Officers on a case by case basis if Members have any doubts about participating.

	<b>Developers role</b>	<b>Members role</b>	<b>Officers role</b>
Public meeting	The developer should invite officers, members, stakeholders and the public. Should agree the form of the public meeting with officers.	Can attend.	Can attend. Assist developer with information about relevant stakeholder groups where known.
Focus group	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Workshop	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Exhibition	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Local meeting	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Drop in session	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
One to one meeting	Useful for hard to reach groups.	'Decision making' members should not attend unless authorised to do so by the Planning Committee.	Meetings with Officers encouraged under the pre-application charged service.
	<b>Developers role</b>	<b>Members role</b>	<b>Officers role</b>

	<b>Developers role</b>	<b>Members role</b>	<b>Officers role</b>
Public meeting	The developer should invite officers, members, stakeholders and the public. Should agree the form of the public meeting with officers.	Can attend.	Can attend. Assist developer with information about relevant stakeholder groups where known.
Focus group	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Workshop	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Exhibition	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Local meeting	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Drop in session	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
One to one meeting	Useful for hard to reach groups.	‘Decision making’ members should not attend unless authorised to do so by the Planning Committee.	Meetings with Officers encouraged under the pre-application charged service.
	<b>Developers role</b>	<b>Members role</b>	<b>Officers role</b>
Questionnaire survey	Should be targeted at residents/ occupiers.	Not appropriate for ‘decision making’ members to take part. <sup>1</sup>	Not appropriate to take part. Responses to proposals are via formal pre-application letters.
Consultation document	The developer should make this available to officers, members, stakeholders and the public.	Can read - but should not be an author of any part of the document and ‘decision making’ members should avoid responding (as above, for questionnaires).	Assist developer with information about relevant stakeholder groups where known, for their circulation. Can read this, though responses to proposals are via formal pre-application letters.
Flyers/ letters/ email shots	The developer should make this available to officers, members, stakeholders and the public. If targeting members, the developer should agree wording with officers to avoid	Can read these. ‘Decision making’ members should avoid responding (as above, for questionnaires).	Can read these.

<sup>1</sup> Even if anonymised, if evidence was later produced of the Member’s response to the questionnaire and it became clear that the Member had predetermined, that would not be acceptable.

## **ANNEX 2: Pre- application Developer Presentations to Members and Stakeholders**

The Planning Committee has time already set aside for pre-application and other planning matters. This is between 6.00pm and 6.50 pm before the Planning Committee's main meeting.

This is a useful time period for developer presentation to members and stakeholders. Such presentations will normally relate to Tier 1 proposals but may exceptionally (at the Officers and the Committee Chairman's discretion) relate to Tier 2 proposals.

An alternative time can be arranged for Member and Stakeholder presentations if the pre-committee time slot is not convenient.

### **Stage in Process**

A developer presentation to members and stakeholders should be part of the wider Statement of Community Involvement process involving other consultation as set out in the SCI and in this note.

It is an opportunity for the developer to explain his proposals and to be asked questions by Members and stakeholders.

It is important that presentations take place at an early pre-application stage in the development process so that developers may address certain aspects of their proposals as a result of questions asked during the presentation.

Presentations by developers will not be appropriate after a planning application is submitted to the authority. This is because at that stage there may be third party interest (e.g. objecting to the proposal) and third parties will not have the same opportunity to be able to present their ideas to members.

### **Arrangements for the pre application presentation**

The presentation arrangements will be confirmed by the Planning Officers. Presentations will normally take place in Committee Rooms 1 and 2. The developer should be made aware that it can take a while (e.g. possibly up to twelve weeks) to find a time for the presentation.

The invitees should include:

- All Members of Wycombe District Council (ward members to receive a letter or email other members to be advised by member

update)

- The Planning Case Officer and any other Officers who will have a significant role in the case.
- A representative of the Highway Authority
- The Chairman of the relevant Parish/ Town Council and a deputy (or their substitutes).
- A member of the Wycombe Society, Chiltern Society or Marlow Society (as appropriate).
- A spokesperson for any local residents group registered with WDC Planning/ their deputy.
- A spokesperson for any identified group registered with WDC Planning where the activities of the group are related to the proposal.

### **Form of the pre-application presentation**

The meeting is introduced by a Chairman (in the first instance the Chairman of Planning Committee, or in his/her absence the Vice Chairman, or if he/she is not available, then the Cabinet Member for Planning and Sustainability).

The presentation will normally comprise:

- (a) Chairman's introduction, including advising the meeting of the rules to ensure that no issues of pre-determination can arise (2 minutes)
- (b) Planning Officer to provide a planning policy context for the development (5 minutes)
- (c) The developer to outline their proposals (roughly 10 to 15 minutes)
- (d) Questions and answers (roughly 30 minutes)

### **Standard information**

When introducing a Developer Presentation to Members and stakeholders the following information should be presented.

*This is a Developer Presentation to Members and Stakeholders and is being conducted under our guidance for such meetings.*

*The following stakeholders have been invited [names]*

*Planning Committee members should remain open minded about development proposals and should not reach a firm view of the merits or otherwise of a proposal as a result of this presentation.*

*There will be a question and answer session at the end of the meeting.*

All Members are requested to not make statements that indicate a closed mind about the development proposals and are advised to restrict themselves to questions. It would be helpful for stakeholders to do the same.

### **Other issues**

Formal minutes will not be taken of the meeting. Developers are required to submit a Statement of Community Involvement with their planning application. Developers should note in this that a developer presentation took place.

Developers should not by themselves arrange a Developer Presentation for Members and stakeholders. This can only be done by officers. If developers do want to arrange a meeting where they can present their ideas to members and stakeholders, this should, in accordance with the SCI take the form of a public meeting (see table above). The key differences are:

- (a) The public meeting should be held local to the development site
- (b) The general public should be invited
- (c) Planning Committee members should not be specifically targeted as the invitees (rather it would be the local ward Members who would be invited or all Members).

A behind closed doors meeting between a Developer and Members of the Planning Committee would not be acceptable.

### **Post Application Presentation**

Applicants may wish to make a developer presentation to members and stakeholders after their planning application has been received by the Local Planning Authority. This type of meeting is not acceptable because third parties have no right to make such presentations. Instead, the Planning Case Officer may arrange to make a presentation on the planning application.

The key features of the presentation are:

- (a) The invitees will be the same as with developer presentation except that the applicant and his advisers will not be allowed to be present.
- (b) The meeting will operate in the same way as the developer presentation, except that the Case Officer will outline the proposal



(c) Formal minutes will not be taken of the meeting. The Case Officer can provide some feedback to the applicant following the meeting. For instance, this could be the case if questions have been asked on technical subjects and the answers are not apparent from the scheme submission.

### **ANNEX 3: Direct decision-making Member involvement in negotiation**

In exceptional cases the Planning Committee can nominate decision – making Members to participate in negotiations with a developer with an Officer present. The Officer should keep a minute of the meeting.

An exceptional situation where this may be the case would be a development proposal that has been supported by Officers but has been refused on more than one occasion on points of detail rather than principle by the Planning Committee. In such cases it may be difficult for Officers to advise the developer how to amend the scheme in order to obtain Members support. The involvement of members in the negotiation may be the most effective way of resolving the matter.

Members taking part in such negotiation will be doing so without prejudice to the final outcome of the application. Members will still be required to consider and weigh any consultation responses and representations received on the proposal and the advice of their officers.

If the revised application is subsequently the subject of a report (either delegated or a report to the Planning Committee) the involvement of Members in the negotiation in accordance with the Council's procedures should be referred to in the report.