

**PLANNING CODE OF PRACTICE  
HOW WE DEAL WITH PLANNING APPLICATIONS AND OTHER  
PLANNING ISSUES**

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## **1. INTRODUCTION**

The Planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, national Planning Guidance and other material considerations. Planning can be highly contentious because its decisions affect the daily lives of individuals, landowners and developers. This is heightened by the openness of the system and the legal nature of Development Plans and decision notices. In considering planning applications and reaching planning decisions the requirements of the individual, whether the applicant or a neighbour, have to be balanced against the broader public interest.

It is important that the process is open and transparent. In other words the planning process should not only be fair but it should be seen to be fair. Reports on Standards in Public Life gave close consideration to these issues and its recommendations feature significantly in Assembly guidance for Councillors and Officers in dealing with planning matters. Members are advised to read all the guidance material provided by the Council (BCBC Website) including the guidance through the 'Planning Portal' available using the internet all of which provides useful background to the Code of Practice.

This Code of Practice provides guidance to elected Members, Officers, applicants and developers on the planning process. It is supplementary to the Bridgend Member and Officer Codes of Conduct which are contained in the Council Constitution.

Whilst the principles set out in this document apply primarily to the manner in which individual planning applications should be dealt with, they also apply to the decision-making process relating to any aspect of the Development Plan, Supplementary Planning Guidance, Design Guides and associated documentation.

## **2. ROLE OF MEMBERS AND OFFICERS**

### **2.1 General**

#### ***2.1.1 Differing Roles***

Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not individual Councillors, and Member's instructions may only be given to Officers through a decision of the Council, its Executive or a Council Committee.

#### ***2.1.2 Relationship and Trust***

It is important that a good relationship exists between Councillors and Officers and that this is based on mutual trust and understanding of each others positions. This relationship and trust must never be abused or compromised.

### **2.2 Role of Officers**

The Officer's function is to advise and assist Councillors in the formulation of planning policies in the determination of planning applications. Officers should:-

- Provide impartial and professional advice.
- Make sure that all the information necessary for the decision to be made is given.
- Provide a clear and accurate analysis of the issues.
- Set applications against the broader Development Plan policies and all other material considerations.
- Give a clear recommendation.
- Carry out the decisions made by Councillors in Committee or through the delegated authority of the Corporate Director Communities.
- Update Members on new legislation and guidance.

## **2.3 Role of Councillors**

### **2.3.1 Upholding Policy**

The full Council is responsible for setting the Council's formal planning policy framework through the Development Plan. As a general principle there is an expectation that Councillors will uphold the Council's planning policies.

### **2.3.2 Planning consideration**

It falls to the Development Control Committee to determine planning and related applications within the context of these planning policies. When Councillors come to make a decision they must:-

- Be clear as to whether or not they have an interest which needs to be declared.
- Act fairly and openly.
- Approach each application with an open mind.
- Carefully weigh up all relevant issues.
- Determine each application on its own merits.
- Avoid giving the impression that the Member has made her / his mind up prior to the application being determined.
- Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

### **2.3.3 Ward Views**

Where a planning application relates to an elected member's ward the views of the local Member are important to the Officers and to the Chair and Members of the Development Control Committee. Local Members can be approached by applicants and by objectors and should consider whether their interests have been prejudiced and should disclose this to the Planning Case Officer and Principal Legal Officer at the Development Control Committee. Members should not become too closely identified with special interest groups if they wish to vote in the Development Control Committee. Whilst Members have a responsibility to their constituents including those who did not vote for them their overriding duty is to the whole County.

## **2.4 Member / Officer Contact**

### **2.4.1 Understanding roles**

The Officer/Member relationship is extremely important for good decision making and an effective planning service. The mutual understanding of their respective roles and respect for each other's position is vital for good relations.

### **2.4.2 Contact & Appointments**

In making enquiries regarding individual applications Members should make contact with the Case Officer or Line Manager and make an appointment if necessary. Members should not seek advice or information from other Officers. This is in the interests of efficiency and to avoid duplication of effort and confusion in what is a very busy service which has to operate within very tight timescales.

### **2.4.3 Assistance from Officers**

Officers will provide every reasonable help to Members in the carrying out of their duties. Meetings between Officers and Members may sometimes be helpful, but are only likely to be of value if prior arrangements have been made. This allows the Officer to have all relevant documents available at the meeting. Prior arrangements may be made by telephoning the relevant Officer or the Customer Care Centre staff. Members rooms can be utilised and suitable rooms, preferably with access to a computer, can be made available by mutual agreement if privacy is required.

#### **2.4.4 Non interference**

It is acknowledged that Members and Officers may well have differing views on a proposal but Members should on no account interfere with or put pressure on Officers to make a particular recommendation.

### **3. TRAINING**

#### **3.1 Undertaking training**

Members of the Development Control Committee shall undertake appropriate training and this training will also be offered to all Members. A Member speaking or voting at Development Control Committee should have received training in planning policies and procedures.

#### **3.2 Core training**

Core Training will consist of sessions covering planning procedures, the Development Plans, Supplementary Planning Guidance, Design Guides and material planning considerations, probity and the application of this Code of Practice.

#### **3.3 Other training**

There will be other training arranged by Officers in consultation with Members in the form of additional sessions, seminars and workshops on topical issues and to keep Members up to date on new procedures, advice and guidance.

#### **3.4 Attendance & Monitoring**

Members of the Development Control Committee should attend a minimum of 75% of the training arranged over a period of 2 years. Attendance records will be monitored and reported to the Council; any Member who fails to attend the stated minimum training sessions may be removed or suspended from the Committee.

### **4. REGISTRATION AND DECLARATION OF INTERESTS**

#### **4.1 Code of Conduct**

Councillors should follow scrupulously the Council's Constitution and the **Councillors' Code of Conduct** in relation to registration and declaration of interests and, if an interest is declared, in deciding whether the Councillor should participate in the consideration of an application. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct. If a Member considers he/she may have a personal interest they should consult the Monitoring Officer or a Senior Officer of the Legal & Regulatory Services Officer's Department for advice on their position.

#### **4.2 Relationship with Third Parties**

If a Member of the Development Control Committee has had such a significant personal involvement with an applicant, agent, landowner or other interested party whether or not in connection with the particular matter under consideration by the Committee, which could possibly lead to the reasonable suspicion by a member of the public that there may be any possibility that the involvement could affect the Councillor's judgement in any way, then the Councillor should consider carefully whether the involvement amounts to a personal interest, which would debar him / her from participation in the decision-making process.

#### **4.3 Personal Interests**

##### **4.3.1 Disclosure**

The principles about the disclosure of interests should be applied, not only to formal meetings, but also to any of a Councillor's dealings with Council Officers, or with other Councillors. Where a Councillor has a personal interest, as defined by the Code, it must always be declared. It does not necessarily follow that the Councillor is debarred from participation in the discussion. The responsibility for declaring an interest lies with the Councillor, but the Monitoring Officer is there to advise. If there is any doubt in a Councillor's mind, he/she should seek early advice from the Monitoring Officer or other senior Officer of the Legal & Regulatory Services on their position. Councillors should err on the side of declaring an interest when they are not sure.

#### **4.3.2 Interests**

Members who have substantial property, professional or other interests relating to the planning function which would prevent them from voting on a regular basis, should avoid serving on the Development Control Committee.

#### **4.3.3 Action when interest declared**

Where a Member has decided he/she has a personal interest making it inappropriate for that Member to be involved in the processing and determination of a planning application in his/her ward such a Member may arrange for another Member to act as local Member instead. In such a situation the local Member should inform the Monitoring Officer and the case Officer of the arrangement made and take no further part in the processing and determination of the planning application other than referring any representations or communications received to the Member who is acting as local Member.

#### **4.4 Declaration**

**4.4.1** When declaring an interest at Committee, this should be done at the beginning of the meeting. Councillors should be clear and specific in identifying the item on the agenda in which they have an interest, and the nature of that interest.

#### **4.5 Register**

**4.5.1** A register of Members' interests is maintained by the Council's Monitoring Officer. It is available for public inspection. Each Councillor has a responsibility to provide the Monitoring Officer with up to date written details of relevant interests.

#### **4.6 Dual Community/Town Council Membership**

##### **4.6.1 Interest**

Membership of a Town/Community Council which has expressed a view on a planning matter does not in itself mean that the Councillor cannot take part in the determination of the matter when it comes before the Development Control Committee provided that the Councillor has kept an open mind and not committed himself/herself to a final view on the matter until all the arguments for and against have been aired at Committee. If the Councillor has been a party to the decision making process of a planning application at a Town/Community Council meeting then they should declare an interest at the Development Control Committee and not take part in the decision making process. Members should always declare a personal interest where they are a member of a Town/Community Council even if they did not take part in the decision making process at that Council.

##### **4.6.2 Town & Community Applications**

Where an application submitted by a Community or Town Council is being considered then a Member of that Council may not vote on the proposal to determine the application.

### **5. LOBBYING**

#### **5.1 Lobbying**

Is a part of the political process and it is quite common for applicants or other interested parties to wish to discuss a proposed development with Councillors before a planning application is determined. This can help Councillors' understanding of the issues and concerns associated with an application. The Councillor should take care not to make any comments in such discussions that might lead anyone to think that they had taken a firm view on the application.

#### **5.2 Decision on Merits**

However, Councillors are under an obligation to determine matters on their merits. That means that they should not take a firm view on a planning matter before receiving and reading any Officer's report or receiving any new information reported to the Committee. Whilst Members of the Committee may form an initial view or opinion, and indicate their view that an application is contrary to policy, they should not openly declare which way they intend to vote in advance of the

Development Control Committee meeting. To avoid compromising their position before they have received all the relevant information, Councillors are advised that they should:-

- Refer applicants / developers who approach them for planning or procedural advice to the case Officer.
- Avoid making it known in advance whether they support or oppose the proposal.
- Avoid campaigning actively in support of a particular outcome.
- Not put pressure on Officers to make a particular recommendation in their report.
- Direct lobbyists or objectors to the case Officer, who will include reference to their opinions where relevant in their report.
- Make it quite clear that they will not make any final decision on the proposal until they have received full information at the Development Control Committee.

### **5.3 Contact**

Members should declare significant contact with applicants and objectors. Significant contact is where a Member has been contacted (either orally or in writing) and believe his/her interests have been prejudiced. Members should always remember that the test as to whether their interests have been prejudiced is not just what they consider to be the case but what a reasonable bystander who is aware of all the facts of the contact would consider to be the case.

### **5.4 Ward Councillors**

Members must advise the Ward Councillor as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside of their own Ward. It is accepted that where a planning application has a significant effect on another ward the Member(s) for that ward is entitled to become involved in the development proposal.

### **5.5 Monitoring Officer**

Councillors should in general, avoid organising support for or against a planning application. Where a Councillor does organise support for or against a planning application then that Councillor should not vote at Development Control Committee on such a planning application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer or other Senior Officer of the Legal and Regulatory Service Officers Department.

### **5.6 Predetermination**

If a Councillor expresses support for, or opposition to, a proposal before the matter is formally considered at the relevant meeting, whether or not there has been lobbying, he / she could have some difficulty in being able to claim to retain an open mind on the issue and to be prepared to determine the application on its merits. If a Councillor does express an opinion, then they should make it clear that it is a preliminary opinion and that he / she will only be in a position to take a final decision when all the evidence and arguments have been considered.

### **5.7 Members function**

Provided that Councillors comply with 5.2, 5.3, 5.4, 5.5 and 5.6 above they are able to:-

- Listen and receive viewpoints from residents, constituents or other interested parties.
- Make comments to residents, constituents, interested parties, other Councillors or Officers.
- Seek information through the appropriate channels.
- Bring to the Committee's attention views / opinions of residents, constituents or other interested parties.
- Participate in the decision making process.

### **5.8 Disclosure**

If however a Councillor has not complied with 5.2, 5.3, 5.4, 5.5 and 5.6 above and has made it clear that he or she has predetermined the matter they should not speak or vote on the matter.

## 6. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS

### 6.1 Not to be delegated

Planning applications submitted by or on behalf of Members, or Officers employed in the Development Department, or Officers involved in the planning process or the close relatives\* of Members or such Officers where the Officer or Member knows of the application shall be decided by the Development Control Committee and not by the Corporate Director Communities under delegated powers if a material planning objection to their application is received.

[\* Close relative is defined as spouse, partner, parent, child or sibling].

### 6.2 Declaration of Interest

A Member affected by clause 6.1 shall declare the interest at any meeting of the Development Control Committee to determine the application, take no part in the decision and leave the meeting place unless granted a dispensation by the Standards Committee.

### 6.3 Officer affected

The affected Officer shall take no part in the processing of the application and its determination.

## 7. APPLICATIONS SUBMITTED BY THE COUNCIL

### 7.1 Equal footing Council Applications

It is important that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

### 7.2 Council applications - Consultation

All such proposals will be subject to the same administration processes, including consultation, as private applications with consideration being made in accordance with policy and any other material planning considerations.

### 7.3 Transparency

In order to ensure transparency and openness in dealing with such applications Council proposals (save for discharge of conditions) will be determined by the Development Control Committee if a material planning objection is received and not by the Corporate Director Communities Officer under delegated powers.

## 8. PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS

### 8.1 Pre Meeting (Breaches of Planning Control)

Pre-application meetings between Officers and potential applicants and negotiations regarding breaches of planning control are encouraged. The aim of such meetings is to ensure beneficial development and to resolve matters that might otherwise lead to the refusal of planning permission. Such discussions will normally take place at Officer level and Members shall, wherever possible, refer requests for such advice to the Officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional. To avoid such meetings being misunderstood:-

- **It will be made clear** at such meetings that only personal and provisional views based upon the Development Plan and other material considerations can be given and no commitments can be made which would bind or otherwise compromise the Development Control Committee or any member of the Committee.
- **A note** of the discussion will be taken and placed on file and made available for public inspection once an application has been made.
- **Where** exceptionally meetings are to involve Councillors the meetings will be arranged by and attended by Officers.

## 9. DEVELOPMENT CONTROL COMMITTEE SITE VISITS

### 9.1 Purpose

#### 9.1.1 Fact Finding

Development Control Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises held for the benefit of Members where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or the general vicinity of the proposal due to its scale or effect on a listed building or conservation area.

### 9.2 Request for a Site Visit

#### 9.2.1 Ward Member request for Site Visit

Site visits can be costly and cause delays so it is important that they are only held where necessary normally on the day prior to Committee and where there is a material planning objection.

Site visits, whether Site Panel or Committee, are held pursuant to (1) a decision of the Chair of the Development Control Committee (or in his absence the Vice Chair) or (2) a request received within the prescribed consultation period from a local Ward Member or another Member consulted because the application significantly affects the other ward, and where **a material planning objection has been received by the Development Department [there is an objection]** from a statutory consultee or local resident.

A request for a site visit made by the local Ward Member or another Member in response to being consulted on the proposed development must be submitted in writing or electronically **within 21 days of the date they were notified of the application** and shall clearly indicate the planning reasons for the visit.

Site visits cannot be undertaken for inappropriate reasons (see Paragraph 9.2.2)

The Development Control Committee can also decide to convene a Site Panel or Committee Site Visit.

#### 9.2.2 Inappropriate Site Visit

Examples where a site visit would not normally be appropriate include where;

- purely policy matters or issues of principle are at issue
- to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations
- where Councillors have already visited the site within the last 12 months, except in exceptional circumstances

### 9.3 Format and Conduct at the Site Visit

#### 9.3.1 Attendance

Members of the Development Control Committee, the local Ward Member(s) and the relevant Town or Community Council will be notified in advance of any visit. The applicant and/or the applicant's agent will also be informed as will the first person registering an intent to speak at Committee but it will be made clear that representations cannot be made during the course of the visit.

#### 9.3.2 Officer Advice

The Chair will invite the Planning Officer to briefly outline the proposals and point out the key issues raised by the application and of any vantage points from which the site should be viewed.

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Members may ask questions and seek clarification and Officers will respond. The applicant or agent will be invited by the Chairman to clarify aspects of the development and the local Ward Member(s) and one objector who has registered a request to speak at Committee (whether a local resident or Town/Community Council representative) and a Town/Community Council representative will be allowed to clarify any points of objection, both only in respect of any features of the site or its locality which are relevant to the determination of the planning application. Any statement or discussion concerning the principles and policies applicable to the development or to the merits of the proposal will not be allowed.

### **9.3.3 Code of Conduct**

Although site visits are not part of the formal Committee consideration of the application, the Code of Conduct still applies to site visits and Councillors should have regard to the guidance on declarations of personal interests.

### **9.3.4 Record keeping**

A file record will be kept of those attending the site visit.

### **9.3.5 Site Visit Summary**

In summary site visits are:-

- Fact finding exercise.
- Not part of the formal Committee meeting and therefore public rights of attendance do not apply.
- To enable Officers to point out relevant features.
- To enable questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent Committee.

### **9.3.6**

The frequency and reason for site inspections will be monitored and reports will be submitted periodically to Committee, in order that these guidelines can be kept under review.

## **10. PROCEDURE AT DEVELOPMENT CONTROL COMMITTEE**

### **10.1 Delegation**

The majority of planning applications are determined by the Corporate Director Communities Officer under the Council's Delegation scheme. This is necessary to ensure that most decisions are made in a timely manner. Whilst Members have a right to request that applications, affecting their ward be determined by the Development Control Committee such requests should be justified by clearly identifying in writing why a Committee decision is required. This is generally done on the return notification form sent out to Members. The delegated arrangements shall be in accordance with the Council's scheme of Delegation of Functions.

### **10.2 Reports**

Officers will produce written reports on all planning applications reported to Committee. In respect of each proposal the report will include, amongst other matters:-

- description of the proposal
- description of the site
- responses to consultations and officer observations thereon.
- summary of objections and / or support received
- relevant site history
- relevant Development Plan policies
- relevant planning guidance where appropriate
- any other material planning consideration

- an appraisal by the Case Officer which will include the relevant views of other consulted Officers within the Development Department
- a clear recommendation
- brief details of any conditions to be imposed or;
- full details of reasons for refusal.

### 10.3 Late observations

Late observations received by 4.00 p.m. the day before a Committee meeting will be summarised and reported separately and circulated to Members immediately prior to the start of the meeting. Members should not attempt to introduce documentation at the Committee meeting where the Planning Officer has not had an opportunity to consider the contents of the documentation. This is essential to ensure Members receive properly considered and correct advice.

### 10.4 Officer Report at Committee

The Planning Officer will at the Chairs request briefly introduce each item highlighting the key issues for Members consideration.

### 10.5 Deferment

Where a Member seeks and obtains a majority for a deferment for a specific purpose then there will be no further debate on that matter until such time as the proposal is re-presented.

**10.6 Public Speaking will take place in accordance with the agreed Public Speaking arrangements.**

## 11. DECISIONS CONTRARY TO OFFICER RECOMMENDATION

### 11.1 Reasons

From time to time members of the Development Control Committee will disagree with the professional advice given by the Corporate Director Communities. The Committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. **If Members are minded to make a decision contrary to the Officer's recommendation the application should be referred to the next meeting of the Committee to enable officers to advise Members further. Where a Member proposes a recommendation contrary to the Officer's recommendation then the proposer should set out clearly the material planning reasons for doing so.** [If Members propose to make a decision contrary to the Officer recommendation (whether for approval or refusal) the proposer should set out clearly the reasons for doing so.] The Chairperson will ensure that the Officer is given the opportunity to explain the implications of the contrary decision, before a vote is taken. In cases where the Development Control Committee decides for good and valid reasons to depart from the Corporate Director Communities recommendation, the Committee must always define the reasons for rejecting the Officer's recommendation and those reasons must be recorded in the minutes of the meeting.

### 11.2 Amending Conditions

In the case of conditions which the Committee wishes to add or amend, the drafting is delegated to the Corporate Director Communities and, if appropriate, in consultation with the Chair of Committee.

### 11.3 Refusal Reasons

In cases of refusal the reasons shall be clearly stated and agreed by Members.

### 11.4 Deferment

Where Members seek to determine a planning application contrary to Officer recommendation that application may be deferred to the next meeting of the Committee only upon a majority vote of the Committee in favour of such deferment to enable Officers to advise Members further.

## **12. APPEALS AGAINST COUNCIL DECISIONS**

### **12.1 Officers Role**

Where an appeal arises against a decision, Officers will usually present the case on behalf of the Council. In giving evidence Officers will present the best possible case on the Council's behalf having regard to, and complying with, the Royal Town Planning Institute's Code of Professional Conduct.

### **12.2 Committee Members Role**

In cases where the appeal is against a decision which the Development Control Committee has made contrary to the Officer's recommendation, the Planning Case Officer may be able to give evidence, but in some major cases, consultants may be employed if the Corporate Director Communities considers that Officers previously stated views may be unhelpful to presenting the Council's case.

### **12.3 Decisions contrary to Officers advice**

In instances where the appeal is against a decision made contrary to Officer Recommendation the mover or seconder of the motion at Committee, or in exceptional cases another Member of Committee so nominated, can attend and give evidence at the public inquiry or local hearing. In appeals heard by way of written representation the Council's submission will include a written statement from such a Member referred to above.

### **12.4 Members support of an appellant**

Where a member, who has expressed support for the applicant at the time of the decision, decides to make representations supporting the appellant, that member must ensure that those representations are qualified at the beginning of an appeal to confirm that those representations are not the view of the Local Planning Authority but are purely the view of that particular member.

### **12.5 RTPI Code of Conduct**

Where the Corporate Director Communities clearly feels that Officers would be unable to defend such decisions on appeal (due to requirements of the Professional Code of Conduct of the Royal Town Planning Institute) then this shall be made known to the Committee. In such cases the Committee may nominate (at least) two of its Members who voted contrary to the recommendation to appear at any appeal and explain the Committee decisions and the reasons for them.

The Royal Town Planning Institute Code of Professional Conduct requires, inter alia, that Planning Officers who are Members of the Institute do not make statements purporting to be their own, but which are contrary to their bona fide professional opinion.

## **13. PLANNING OBLIGATIONS**

### **13.1 Merits**

The Development Control Committee may, when considering the merits of an individual planning application, consider any planning obligation which has been offered by the applicant or agent but should form a view solely on the basis of the contents of the application and should take into account offered planning obligations only to the extent that they are necessary to make a proposal acceptable in land use planning terms.

### **13.2 Contact to be avoided**

Councillors should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits, which may be offered to the Council, or benefits which the Council itself wishes to obtain.

## **14. REGULAR REVIEW OF DECISIONS**

### **14.1 Sampling Decisions**

As part of the aim to continually improve the quality of planning decisions Members will have the opportunity to revisit a sample of implemented planning decisions. Such reviews will be a positive

step to improve the quality and consistency of decision-making, not only strengthening public confidence in the planning system but also assist with the review of planning policy.

#### **14.2 Annual Review**

Such a review will take place annually and briefing notes will be prepared for each case. The Development Control Committee will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

#### **15. COMPLAINTS**

Any issues or concern arising from this Code of Practice can be raised with the Chairperson of the Development Control Committee, the Monitoring Officer, or the Legal Officer present at Committee. (The Council also has a formal complaints system in operation, which can be used if necessary).