

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO DEVELOPMENT CONTROL COMMITTEE

31st March 2016

REPORT OF THE CORPORATE DIRECTOR – COMMUNITIES

Draft Planning Committee Protocol

1. Purpose of Report

- 1.1 To seek Development Control Committee Members' comments on the Draft Planning Committee Protocol prepared by the Welsh Local Government Association (WLGA) and to consider the draft consultation response prepared by Officers (Appendix 1).

2. Connection to Corporate Improvement Plan / Other Corporate Priorities

- 2.1 The Planning (Wales) Act 2015 proposed changes to the way planning decisions are taken, including provisions which allow for standardisation of planning committee arrangements and delegation to officers across Wales.
- 2.2 The Council operates a scheme of delegation where it has delegated powers to officers to determine most planning applications and other related planning submissions. This Authority now determines in excess of 90% of all applications received under delegated power arrangements. All other applications are referred to the Development Control Planning Committee.
- 2.3 The adoption of a standardised planning committee protocol across the 25 Local Planning Authorities in Wales will improve transparency and increase the public understanding of the system. The Council has a statutory duty to provide a planning service and the delivery of a robust decision making process is an important part of the service in line with the Council's Corporate Improvement Plan and Corporate Priorities.
- 2.4 The delivery of the County Borough's statutory planning function has links to the Council's corporate priorities in particular number 1 – supporting a successful economy.

3. Background

- 3.1 The Planning (Wales) Act, which received Royal Assent in 2015, will result in many changes to the planning system in Wales. In addition to legislative change, the Welsh Government Minister for Natural Resources, Carl Sargeant, is advocating culture change, which forms a central principle of the new Act. One element of this suggested culture change revolves around a more consistent approach in the operation of planning committees.
- 3.2 A recent study commissioned by the Royal Town Planning Institute into the "Study into the Operation of Planning Committees in Wales" (undertaken by Arup and Fortismere Associates) provided an insight and recommendations about improving Planning Committees in Wales. The study concluded that there is a wide range of differing practices across Wales and recommended that a national planning committee protocol be prepared.
- 3.3 As a result of the study, the Welsh Government invited local authorities to draft a voluntary planning committee protocol. The drafting group included representatives from the Planning Officer's Society Wales and Planning Solicitors in Local Government. The draft protocol for consultation is attached at Appendix 1 and the Officer's draft response to the consultation questions is attached at Appendix 2.

4. Current Situation

- 4.1 The existing Development Control Committee Protocol is included within the Council's "*Planning Code of Practice – How We Deal with Planning Applications and Other Planning Issues*" (see Appendix 2). We also publish a note on our website which explains our public speaking procedures at Development Control Committee meetings (Appendix 3).

5. Next Steps

- 5.1 The draft Planning Committee Protocol and the Local Planning Authority's (LPAs) draft response to the questions will be discussed at a Member Workshop before the Development Control Committee on the 31st March, 2016. Any suggested revisions to the draft consultation response from the workshop or from Members after 31st March, 2016 will be reported back to Development Control Committee on 12th May, 2016 for approval before formally submitting our comments to the WLGA before the consultation period closes on 20th May, 2016.
- 5.2 The WLGA drafting group will then review all comments received and will amend the protocol where appropriate. It is anticipated that the final version of the protocol will be available in June 2016 for consideration by each local authority at the appropriate Council meeting.

6. Effect upon Policy Framework & Procedure Rules

- 6.1 It is intended that the final version of the planning committee protocol will be adopted by all LPAs in Wales.

7. Equality Impact Assessment.

- 7.1 An Equality Impact Assessment Screening has been undertaken and the proposed recommendations are unlikely to have an impact on equality issues.

8. Financial Implications

- 8.1 None.

9. Recommendations

- 9.1 That Members of the Development Control Committee:
- (1) consider the draft Planning Committee Protocol produced by the WLGA (Appendix 1);
 - (2) consider the draft consultation response from the Local Planning Authority (Appendix 1) and provide their comments at the planned workshop session or before Friday 29th April, 2016; and,
 - (3) authorise Officers to amend the draft consultation document and produce a further report on the outcome of the consultation process which will be reported back to Development Control Committee on 12th May, 2016.

Mark Shephard
Corporate Director Communities
31st March, 2016

Contact Officer

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Background documents

Appendix 1: BCBCs Draft Consultation Response

Appendix 2: BCBCs existing Planning Code of Practice – How We Deal with Planning Applications and Other Planning Issues

Appendix 3: BCBCs Notes on Procedure for Public Speaking at Development Control Committee Meetings

Appendix 1

Draft Planning Committee Protocol

1. Introduction

- 1.1 The Planning (Wales) Act which received Royal Assent in 2015 will result in many changes to the planning system in Wales. In addition to legislative change the Minister is strongly advocating culture change; part of which is a more consistent approach to planning across Wales including greater consistency in the operation of planning committees.
- 1.2 A recent study by the Royal Town Planning Institute into the "Study into the Operation of Planning Committees in Wales" concluded that there is a wide variety of practice in the operation of planning committees across Wales and recommended that a national planning committee protocol be prepared.
- 1.3 As a result of this study, Welsh Government invited local authorities to draft a voluntary planning committee protocol. Through the WLGA a drafting group was established with representatives from the Planning Officers Society Wales and Lawyers in Local Government. The members of this group are:
 - Sioned Wyn Davies, Legal, Democratic and Registration Services Manager, Wrexham CBC
 - Simon Gale, Service Director Planning, RCT CBC
 - Simon Humphreys, Head of Legal Planning & Environment, RCT CBC
 - Roderic Jones, Senior Lawyer, Bridgend CBC
 - Jane Lee, Policy Officer, WLGA
 - Paul Lucas, Director Legal and Democratic Services, RCT CBC
- 1.4 Following a series of meetings, the drafting group has prepared a draft protocol for consultation. The draft protocol is based on the published LLG Planning Code or Protocol 2014.

2.0 The Protocol

- 2.1 The primary aim of the protocol is to improve consistency across the 25 LPAs while ensuring a level of local flexibility through discretion of the Chair and locally determined procedures such as the committee meeting running order. Planning Committees have different names in different local planning authorities therefore where the term "planning committee" appears in the text this has been inserted in brackets.
- 2.2 It is intended that the protocol will complement any national and local codes on Councillor Conduct and the general arrangements regarding the running of meetings. This protocol is specific to Planning and covers the following areas:
 - Relationship to the Members' Code of Conduct
 - Development Proposals and Personal and Prejudicial Interests

- Fettering Discretion in the Planning Process
- Member Involvement at the pre-application stage
- Contact with Applicants, Developers and Objectors
- Lobbying of Councillors
- Lobbying by Councillors
- Site Visits/Inspections
- Public Speaking at Meetings
- Public Speaking Procedures
- Role of Officers
- Decision Making
- Cooling Off Period
- Duties of the Chair
- Role of Members at a Planning Appeal
- Training
- Customer Care
- Advice for the public on attending and speaking at the Planning Committee

3.0 How to respond

- 3.1 The WLGA welcomes comments on the protocol and has inserted questions in the consultation draft of the protocol to prompt responses. The closing date for comments is Friday 20th May 2016. Please send comments to Jane Lee by email jane.lee@wlga.gov.uk or by post to WLGA, Local Government House, Drake Walk, Cardiff, CF10 4LG.
- 3.2 The drafting group will review these comments and make changes to the protocol where appropriate. It is anticipated that the final protocol will be available in June for consideration by each local authority at the appropriate Council meeting.

Draft Planning Committee Protocol

1.0 Introduction

- 1.1 **The aim of this Protocol** is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.2 One of the key purposes of the planning system is to regulate the development and use of land in the public interest. Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 1.3 You are also a democratically accountable decision-taker who has been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised.
- 1.4 **When the Protocol applies:** this protocol applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the 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.
- 1.5 If you have any doubts about the application of this protocol 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.

Q1. Do you agree with having a national planning protocol?

In principle, yes. Particularly if a level of local flexibility is allowed as suggested in paragraph 2.1.

2. Relationship to the Code of Conduct

Do apply the rules in the Code of Conduct first, which must always be complied with.

Do then apply the rules in this Members' Planning Committee Protocol, which seek to explain and supplement the Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this protocol, you may put:

- the Council at risk of proceedings on the legality of the related decision or maladministration; and

- yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the Code of Conduct, in a complaint being made to the Ombudsman.

3. Development Proposals and Personal and Prejudicial Interests

Conduct of All Members

Do disclose the existence and nature of your interest as required by the Code of Conduct.

Do then act in accordance with the Code of Conduct. Where your interest is a personal and also a prejudicial interest:

- Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the [planning committee]
- Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

Do note that you will be able to speak at a [planning committee] where you have a prejudicial interest if and only to the same extent that a member of the public would have a right to speak on that item but remember that you must withdraw from the meeting as soon as you have finished speaking.

Do notify the Monitoring Officer in writing of your own planning applications and note that:

- you should send the notification no later than submission of that application;
- the proposal will always be reported to the [planning committee] as a main item and not dealt with by officers under delegated powers;
- you must not get involved in the processing of the application; and
- it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

Q2. Do these proposals differ from the protocol you have in place? Do you see any difficulties with adopting these proposals?

- i) No
- ii) No

4. Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)

4.1 Members of the Planning Committee

Don't fetter your discretion by approaching the decision with a closed mind.

Do be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.

Do keep at the front of your mind that, when you come to make the decision, you

- are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
- must keep an open mind and hear all of the evidence before you, including the written report, the officers' presentation of the facts and their advice, any oral or written representations received and the arguments from all sides;
- are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
- are to come to a decision after giving what you feel is the right weight to those material considerations.

Do be aware that you can be found to be biased where the Council is the landowner, developer or applicant if 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 proposing and planning determination committees, 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.)

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 community council, for example, or both a unitary authority councillor), provided:

- the proposal does not substantially effect the wellbeing or financial standing of the consultee body;
- 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, based on your overriding duty to the whole community and not just to the people in that area, ward or community, 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.

Do explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (Use the disclosure form provided for disclosing interests.)

Do remember that as a Member of the [planning committee] subject to the provisions of the Code of Conduct and provided that you have not pre-determined the application you can speak and vote on any application which comes before the Committee.

Where an application comes before the [planning committee] which falls within the electoral area of a Member that Member can: -

- act as a Member for their electoral ward in dealing with the application; or
- act as a Member of the [planning committee] in relation to the application.

Where a Member acts as a Member for their electoral ward:

- they will be able to speak on an application but not vote on that application
- they must notify the Chair when that item has been called as the next business to be considered by the [planning committee] that they intend to act as a Member for their electoral ward
- the Chair shall invite the Member to speak following any public speakers but before any debate starts. If the Member decides not to speak on the Application they shall not be given a further opportunity to speak.
- once the Member has exercised their right to speak or indicated that they do not wish to speak they shall leave the [planning committee] area until the item is dealt with.

Where a Member acts as a Member of the [planning committee] for an application in their electoral ward:

- they must notify the Chair when that item has been called as the next business to be considered by the [planning committee] that they intend to act as a Member of the [planning committee]

- the Chair shall explain to all present that the Member will not be acting as a local member for that application and may speak in the debate and vote.

Do seek advice from the [Monitoring Officer] before the meeting of the [planning committee] where you have an interest under the Code of Conduct in an item in your electoral ward {NB the Code of Conduct is due to be amended and para 10(2)(b) is likely to disappear}

Q3. Does the proposal regarding voting differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

i) Yes - Ward members are allowed to vote and are not required to notify the chair. ii) No.

4.2. Member involvement at the pre-application stage

Do be aware that in your role as an elected member, you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.

Do be aware that you can through personal significant involvement in preparing or advocating a proposal be, or be perceived by the public as being, no longer able to act impartially.

Do consider yourself able to take part in a consultation on a proposal and, if you are a member of the [planning committee], the subsequent determination of the application provided that: -

- You do not in any way commit yourself as to how you may vote when the proposal comes before the [planning committee] for determination;
- You focus only on site factors and site issues;
- You do not excessively lobby fellow councillors regarding your concerns or views not attempt to persuade them how to vote in advance of the meeting at which the planning decision is take;
- You are not involved in negotiations regarding the application. These should be conducted by officers separately from any pre-application discussions members have been involved in.

At a pre-application consultation: -

- Do ask relevant questions for the purpose of clarifying your understanding of the proposal;
- Do remember that the presentation is not part of the formal process of debate and determination of any application.

Q4. Are members currently involved in pre-application discussions? Do you see any difficulties with adopting these proposals?

- i) Yes – occasionally either as part of their Town/Community Council meetings or when participating as the Local Ward Member in pre-application meetings between the developer and the Local Planning Authority. The current protocol limits member involvement if approached by a developer.
- ii) We can foresee an issue with the statutory pre-application consultation process coming in for major developments from 16th March, 2016 (with a transition period up until 1st August, 2016) where the developer will be expected to have consulted the “Community Consultee” (Town/Community Council with a Local Ward Member potentially involved) and include any response/comment in a Pre-application Consultation report to be submitted with the application. This could be deemed to prejudice their views on a particular scheme. Also, “excessive lobbying” would need to be defined and would be difficult to identify, monitor and control any lobbying of Members.

5. Contact with Applicants, Developers and Objectors

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

Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the [Development Control Manager] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

Do otherwise:

- follow the Authority's rules on lobbying;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the [Development Control Manager] 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:

Don't attend a planning presentation without requesting an officer to be present.

Do ask relevant questions for the purposes of clarifying your understanding of the proposals.

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 by the appropriate Committee of the planning authority.

Do be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

Q5. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

- i) No. Members need to declare any contact.
- ii) Yes – the LPA are not expected to be involved at the pre-application consultation stage and would not attend any pre-application consultation presentation to Town/Community Councils.

6. Lobbying of Councillors

Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or offer a firm point of view that it amounts to the same thing.

Do remember that your overriding duty is to the whole community not just to the people in your ward and, 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.

Don't accept gifts or hospitality from any person involved in or affected by a planning proposal.

Do copy or pass on any lobbying correspondence you receive to the [Development Control Manager] at the earliest opportunity.

Do promptly refer to the [Development Control Manager] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

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.

Do note that, unless you have a personal interest which is also a prejudicial interest, you will not have fettered your discretion or breached this Planning Protocol through:

- Listening to or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

Q6. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

- i) No
- ii) No.

7. Lobbying by Councillors

Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.

Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRW, Ramblers Association or a local civic society), but you should disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.

Don't excessively lobby 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.

Don't decide or discuss how to vote on any application at any 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.

Q7. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

- i) Yes – current protocols do not allow any lobbying of fellow members.
- ii) It would be difficult to define, monitor and control any excessive lobbying of fellow members.

8. Site Visits/Inspections

8.1 Site visits are fact-finding exercises, the sole purpose of which is to allow the [planning committee] to look at the site and its surroundings and shall only be held when the [planning committee] are unable to reach an informed decision without seeing the site for themselves and an inspections would have substantial benefit.

Examples where a site visit would NOT be appropriate include: -

- Where purely policy matters or issues of principle are at issue;
- A Member wishes to consider boundary or neighbour disputes;
- To consider issues of competition;
- To consider loss of property values;
- Simply at the invitation or request of the local Member;
- Where you disagree with the conclusion reached in the Officer's report;
- To consider issues which are not material planning considerations;
- Where Members have already visited the site in the last 12 months, other than in exceptional circumstances, details of which shall be minuted.

8.2 In all cases where a decision is made to conduct a site visit the full planning reasons and details of the issues to be inspected during the site visit shall be minuted.

If a site visited is conducted as a member of the [planning committee]:

- **Do** try to attend site visits organised by the Council where possible.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the [planning committee]
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the [Ward] [local] Member(s) whose address 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.
- **Don't** express opinions or views.
- **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 Control Manager] 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.
 -

Q8. Do you see any difficulties with adopting these proposals?

- i) **No. There are similar arrangements already in place.**

N.B. Some LPAs do not allow a member who was not present at the site visit to take part in the decision/vote.

9. Public Speaking at Meetings

Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

Do ensure that you comply with the Council's procedures in respect of public speaking.

Q9. Does your authority allow public speaking? If not are there any reasons why public speaking cannot be allowed?

Yes. 3 mins per speaker or up to 10 mins per speaker on Extraordinary Applications.

10. Public Speaking Procedures

10.1 Public speaking shall be permitted at a [planning committee] in accordance with the following procedures: -

- A member of the public who wishes to speak at the [planning committee] must notify the [Development Control Manager] in writing at least 2 working days prior to the date of the [planning committee] where the planning application will be considered. In exceptional circumstances, the Chair may agree to hear late requests.
- Where an application is deferred (following an application where Members have indicated that they are minded to either grant or refuse contrary to officer recommendation) then public speakers will not be heard on the second occasion that the application is before Members subject to the Chairman's discretion, in exceptional circumstances, to allow such speakers.
- Each side will have no more than 5 minutes to address the meeting although, in exceptional circumstances, the Chairman may extend this time. Where there is more than one speaker objecting to the application then the five minutes is a total for all objectors.
- Visual aids and other supporting evidence will not be permitted.
- A member of the public addressing the [planning committee] is not permitted to put questions to Members or Officers but this will not prevent Members asking the public speaker questions through the Chairman.
- The order for public speaking shall be:
 - The applicant/professional adviser of the objector
 - Supporters of the applicant
 - Objector/ professional advisers of the objectors
 - Response by the applicant
 - Community Councillor
 - Local Member or adjoining Ward Member
- Consideration of an application will not be delayed simply because an objector, the applicant, Community Councillor or Ward Member is not present providing that they have been appropriately informed of the date of the meeting and of their right to speak at the meeting.

Q10. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

- i) Yes – speakers have 3 mins each unless it is an Extraordinary Application where they have up to a maximum of 10 mins to address Committee (apart from County Borough Councillors not on Committee or the representatives of a Town/Community Council). Also, in order to be allowed to speak at Committee, objectors/supporters must submit their request to speak at Committee at the same time as they submit their comments (i.e. within the first 21 days).
- ii) Yes – members of the public who wish to speak at Committee should submit their request to speak as part of their initial consultation response. This allows the LPA to understand their issues and the likely content of their speech and take steps to ensure that persons with similar concerns organise themselves and appoint a representative.

It is considered that 5 mins in total is not sufficient for “each side” to address Committee, particularly if there are several issues to consider and the Chairs’ discretion to extend is likely to be inconsistent and open to challenge.

Also, would the time be paused to allow more than one speaker from each side to take over? BCBC consider that it is reasonable to allow each speaker 3 mins each to address Committee with scope to appoint a representative of a group or the community to address Committee to avoid repetition of points.

11. Role of Officers

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 [Development Control Manager], which may be incorporated into any committee report).

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 the views, opinions or decisions of the Committee or its Members.

12. Decision Making

Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.

Do come to meetings with an open mind and demonstrate that you are open-minded.

Do comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

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.

Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.

Do have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].

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/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

Q11. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

- i) No
- ii) No

N.B. the local Member can formally request that an application be referred to the Development Control Committee by notifying the Corporate Director in writing/electronically within 21 days of the circulation of details of the application (i.e. the weekly list of applications) of the material planning reasons why the Councillor considers the application should be considered by the Committee.

13.Cooling Off Period

13.1 Where Members of the [planning committee] are minded to take a decision against Officers recommendation, Members should defer consideration of that matter to the next meeting of the Committee in order to receive a further report from [Development Control Manager], if necessary, in consultation with the [Legal and Democratic Services Officer], upon the strengths and weaknesses of any proposed or possible planning reasons for such a decision.

Q12. What are your views on having a cooling off period?

A cooling off period is already in place at BCBC. In cases where Members overturn an Officer's recommendation for approval, the reasons are drafted and reported back to members at the next Development Control meeting. In cases

where Members overturn an Officer's Recommendation for refusal, conditions are drafted and reported back to members at the next Development Control meeting.

14. Duties of the Chair

- 14.1 The Chair shall make clear to everyone present the capacity in which a Member is speaking on a specific application unless that Member is a Member of the [planning committee] and taking part in the debate.
- 14.2 The Chair shall make clear to everyone present when the [planning committee] is moving to the debate stage on any application.
- 14.3 The Chair shall make clear to everyone present at the [planning committee] that a debate or speech must relate to planning issues relevant to the application.
- 14.4 The Chair shall ensure that all Members of the [planning committee] who are entitled to vote on any particular application understand what they are voting for and whether the vote is on an amendment of on a recommendation.
- 14.5 The Chair will be responsible for making clear to everyone present at a meeting what the decision is on an application

Q13. Are these duties different from current duties? Do you consider that training for Chair of Planning Committee would be required?

- i) No
- ii) Yes – every time the Chair of Development Control Committee is replaced.

15. Role of Members at a Planning Appeal

- 15.1 Where a [planning committee] refuse an application contrary to officers' recommendation the planning officers' professional code will prevent them from supporting the committee decision at appeal.
- 15.2 It is acceptable for a member of the [planning committee] to advocate the decision made by the [planning committee] but it is recommended that an officer provides technical support to the Member at the appeal and deals with any technical or process issues raised by the Inspector or other participants.
- 15.3 A Ward Member or Non-Committee Member is entitled to make representations at the appeal but they should offer local views and not the views of the [planning committee]
- 15.4 A Member who disagrees with the [planning committee] should not make opposing representations at an appeal and should accept the decision of the [planning committee] as being fair, open and democratic. Where a Member wishes to make representations at an appeal that are contrary to the decision of

the [planning committee] they should first inform the [Development Control Manager] of their decision so that the Planning Inspectorate can be informed. Members in these circumstances must understand that the views that they put forward do not represent the views of the Council or the [planning committee].

Q14. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

- i) No. Usually the member who has proposed/seconded the motion is required to give evidence in any hearing or inquiry and to lead the Council's case
- ii) No

16. Training

- 16.1 All Members of the [planning committee] must undertake training in accordance with the relevant training scheme (local or national) before participating in any decision making at meetings.
- 16.2 Do endeavour to attend any other specialised training sessions 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.

Q15. Do you currently require planning committee members to undertake training before participating in any decision making? Would you support a national approach to provision of training resources?

- i) No, however, regular training and workshop sessions are held on specific topics as well as an annual 'basic' planning law session. New members joining the committee are offered 1:1 training.
- ii) Yes, a national scheme would ensure consistency as well as up to date information.

17. Customer Care

- 17.1 The Planning Authority will adopt a procedure which sets out the way in which each application will be dealt with. This procedure should cover cut off time for representations and how late representations to the report are managed, how members' questions will be dealt with, moving and seconding of recommendations from officers and how amendments will be dealt with.
- 17.2 Local Planning Authorities are not obliged to notify objectors that the application is going to committee. It is however advised that interested parties are made aware that information regarding committee agendas is available on the Council website and therefore they are advised to regularly check the Council website.

- 17.3 As part of the proper administration of the meeting any members of the public who attend shall be shown to the public gallery and provided with sufficient copies of the Agenda for the meeting. In addition copies of the procedure adopted by the Council for the conduct of the meeting should be made available.
- 17.4 Members of the public who have requested an opportunity to speak on an application shall be shown the location where they will be able to address the [planning committee] and when their opportunity to address the [planning committee] will arise.
- 17.5 The Chairman shall make clear to everyone present which Agenda item the [planning committee] is considering at any specific time and shall identify the application number and page number on the Agenda and the site address.
- 17.6 The Chairman will confirm the order of speaking on an application. The Chairman shall identify to the [planning committee] the public speaker and the capacity in which they address the [planning committee]. The Chairman will confirm to the public speakers the time permitted to address the [planning committee]. If a Member who is speaking has a right to speak but not to vote the Chairman shall make clear the capacity of that Member at the meeting.
- 17.7 When a decision is taken on any application, the Chairman shall make clear to all present at the meeting the decision taken by the [planning committee] on that item.

Q16. Do these proposals differ from the current customer care arrangements you have in place? Do you see any difficulties with preparing a local procedure as set out in paragraph 15.1?

- i) No
- ii) No

18. Advice on attending and speaking at the [Planning Committee]

- 18.1 The Council shall publish on its web site advice to the public on attending and speaking at the [planning committee].

Suggested provisions: -

1. How do the Council decide planning applications?

Over three-quarters of the planning applications submitted to the Council are decided by officers under delegated powers. The rest are decided by Elected Councillors at the [Planning Committee]. The full list of matters that should be considered by the Committee can be found in the scheme of delegation on the Council's website – www.xxxx.gov.uk/planning

The following procedures and guidance are designed to ensure fair play and the smooth conduct of the [Planning Committee] meeting.

2. Can I speak at Committee?

Yes - but there are some procedures that need to be followed and these are outlined below.

3. How do I get to speak at Committee?

If you wish to speak at the Committee, you must notify the [Development Control Manager] in writing, at least 2 working days before the date of the Committee meeting at which the planning application will be considered. This will allow reasonable notice for the applicant to be contacted and make arrangements for them, or their agent, to speak and respond to you, should they so wish.

Notification of a written request to speak at the Committee which is received less than 2 days before the date of the meeting will not be accepted, unless there are exceptional circumstances. These will be determined by the Council Legal Officer, in consultation with the Chairman of the Committee.

4. What if a lot of people want to speak?

If a number of people wish to speak either for, or against, a particular planning application on similar grounds, you should try to combine your representations with them and nominate one spokesperson to speak on your behalf. This will avoid unnecessary repetition at the Committee meeting.

5. What can I expect at Committee?

As long as you have registered to speak there is nothing you need to do when you arrive at the Committee as the Chairman will let you know when it is your turn to speak.

First, the Chairman will open the meeting and ask the Members of the Committee to declare whether they have any personal and/or prejudicial interests in any of the applications that are to be discussed. If any Member does have a prejudicial interest you will see they leave the room when that application is being discussed. Further information on personal and prejudicial interests can be found on the Council's website – www.xxxx.gov.uk

The Chairman will then introduce the application to be considered. Public speaking will normally come next. Consideration of an item will not be delayed if a person who has registered to speak is not present.

Example The order for public speaking is likely to be as follows:

1. The applicant
2. The applicant's professional advisers
3. Supporters of the applicant
4. Professional advisers of the objectors
5. Objectors

6. Response by the applicant

It is important to be aware that public speakers will be expected to sit at a microphone at the front of the meeting. If you think that this situation could make you nervous you may want to think about preparing some notes of what you want to say to help you on the night, or perhaps ask someone to speak on your behalf.

Each side will have no more than 5 minutes to address the meeting although, in exceptional circumstances, the Chairman may extend this time. All speakers must comply with the directions of the Chairman, should he/she interrupt them during their speech.

6. What are Site Visit Committees?

Sometimes, even before the public speaking has started, a Member of the Committee may request that consideration of the application is deferred for a site visit. If the Committee agrees with this request then there will be no further discussion on the application at the meeting, and you will not be invited to speak.

Members of the Committee (not necessarily the whole Committee) will make a formal visit to the application site within a couple of weeks in order to assess the situation on site. You will not be able to make representations to the Members of the site visit Committee.

The application will then be reported back to the next available meeting of the Committee, along with an update from the site visit meeting. It is expected that you would still wish to address the Committee but if this is not the case then you should notify us of this change.

7. What happens after the public speaking?

Once all of the people who have registered to speak on the application have spoken, the matter will then be considered and debated by Members. In some cases the Chairman may invite the Planning Officer to make a short presentation on the application to the Committee or update Members on any late representations that have been received.

Members will then 'vote' on the application through a show of hands, which will normally lead to one of three outcomes:

- they may vote to defer determination of the application to a later meeting if it is felt that further information or amendments are needed before a decision can be made;
- they may vote to agree with the Planning Officer's recommendation to approve or refuse the application; or
- they may vote to disagree with the Planning Officer's recommendation.

If the resolution is to go against the Planning Officer's recommendation then the application will not usually be determined at that meeting. The application will be considered again at a further meeting of the Committee with an additional report looking at the implications of going against the Planning Officer's

recommendation. You will not normally be able to speak when the application is reported back. Members are not bound by their original resolution and can, following consideration resolve to agree with the Planning Officer's recommendation.

General advice

The law of defamation applies to any statement made in public. It is important, therefore, that you exercise extreme caution if you make personal comments about either applicants or objectors.

You should not enter into any dialogue with the Members of the Committee at the meeting.

Meetings of the Development Control Committee are normally held at am/pm in the Committee Chamber, Council Offices. General enquiries in respect of meetings should be made to the Council's Member Services Support Team, tel, email: If you want to know when, or if, a particular planning application is due to be considered by the Committee, please contact.

Q17. Do you have any additional comments not covered in the questions above?

At BCBC, we carry out site visits on major or contentious applications the day before the Development Control Committee with the agreement of the Chair of DC Committee. This tends to avoid any requests for applications to be deferred for a site visit.

Some LPAs allow speakers who cannot attend a subsequent meeting the opportunity to address members at the initial meeting if Members have voted to defer an application.

Most LPAs webcast their meetings now and speakers should be notified that they will be part of the live webcast before finally deciding to proceed or not.

The current public speaking protocol dictates that applicants can only address the committee where there is an objector who also wishes to speak. There is some merit in allowing developers to address the committee regardless of whether there is an objector or not.

Appendix 2

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

CONTENTS

CONTENTS	i
1. INTRODUCTION	1
2. ROLE OF MEMBERS AND OFFICERS.....	1
2.1 General	1
2.1.1 Differing Roles	1
2.1.2 Relationship and Trust	1
2.2 Role of Officers	1
2.3 Role of Councillors	2
2.3.1 Upholding Policy	2
2.3.2 Planning consideration.....	2
2.3.3 Ward Views	2
2.4 Member / Officer Contact	2
2.4.1 Understanding roles	2
2.4.2 Contact & Appointments	2
2.4.3 Assistance from Officers.....	2
2.4.4 Non interference.....	3
3. TRAINING.....	3
3.1 Undertaking training.....	3
3.2 Core training.....	3
3.3 Other training.....	3
3.4 Attendance & Monitoring	3
4. REGISTRATION AND DECLARATION OF INTERESTS.....	3
4.1 Code of Conduct.....	3
4.2 Relationship with Third Parties	3
4.3 Personal Interests	3
4.3.1 Disclosure	3
4.3.2 Interests.....	4
4.3.3 Action when interest declared	4
4.4 Declaration.....	4
4.5 Register	4
4.6 Dual Community/Town Council Membership	4
4.6.1 Interest.....	4
4.6.2 Town & Community Applications.....	4
5. LOBBYING	4
5.1 Lobbying	4
5.2 Decision on Merits.....	4
5.3 Contact	5
5.4 Ward Councillors	5
5.5 Monitoring Officer.....	5
5.6 Predetermination	5
5.7 Members function	5
5.8 Disclosure.....	5
6. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS	6
6.1 Not to be delegated	6
6.2 Declaration of Interest	6
6.3 Officer affected	6
7. APPLICATIONS SUBMITTED BY THE COUNCIL	6
7.1 Equal footing Council Applications	6
7.2 Council applications - Consultation	6
7.3 Transparency	6
8. PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS	6
8.1 Pre Meeting (Breaches of Planning Control)	6
9. DEVELOPMENT CONTROL COMMITTEE SITE VISITS.....	7
9.1 Purpose	7
9.1.1 Fact Finding	7

9.2 Request for a Site Visit	7
9.2.1 Ward Member request for Site Visit	7
9.2.2 Inappropriate Site Visit	7
9.3 Format and Conduct at the Site Visit	7
9.3.1 Attendance	7
9.3.2 Officer Advice	7
9.3.3 Code of Conduct	8
9.3.4 Record keeping.....	8
9.3.5 Site Visit Summary	8
10. PROCEDURE AT DEVELOPMENT CONTROL COMMITTEE	8
10.1 Delegation	8
10.2 Reports	8
10.3 Late observations	9
10.4 Officer Report at Committee	9
10.5 Deferment	9
10.6 Public Speaking	9
11. DECISIONS CONTRARY TO OFFICER RECOMMENDATION	9
11.1 Reasons.....	9
11.2 Amending Conditions	9
11.3 Refusal Reasons	9
12. APPEALS AGAINST COUNCIL DECISIONS	9
12.1 Officers Role.....	9
12.2 Committee Members Role	10
12.3 Decisions contrary to Officers advice	10
12.4 Members support of the appellant	10
12.5 RTPI Code of Conduct	10
13. PLANNING OBLIGATIONS	10
13.1 Merits	10
13.2 Contact to be avoided	10
14. REGULAR REVIEW OF DECISIONS	10
14.1 Sampling Decisions	10
14.2 Annual Review.....	10
15. COMPLAINTS.....	11

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 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.

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 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. 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.

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).

NOTES ON PROCEDURE FOR PUBLIC SPEAKING AT DEVELOPMENT CONTROL COMMITTEE MEETINGS

Introduction

The following notes are designed to help you to decide if you are eligible to speak at Committee and if so how to go about it, should you wish to do so (please note some 85% of all applications are dealt with under delegated powers and are not reported to Committee).

The Meetings

The Development Control Committee is normally held at the Civic Offices Angel Street, Bridgend, CF31 4WB every fourth Thursday. The applications that are to be discussed at Committee are set out on a report which is available beforehand. You are advised to arrive no later than 20 minutes before the meeting which starts at 2pm. A clerk will advise on seating and answer any other queries. **Speakers should advise the Council in advance if they have any special needs.**

Are you eligible?

You should be one of the following:-

- A County Borough Councillor not on the Development Control Committee within whose ward the application is situated, or a Cabinet Member;
- An objector against the application or their representative who has submitted an objection in writing detailing your concerns (an 'anonymous' objector would not qualify);
- A representative of a Town or Community Council;
- The applicant or their agent/advisor (if an objector or a Town or Community Council or a County Borough Councillor not on Committee speaks against your proposal)

How do I go about it?

It is your responsibility to check whether the application is to be considered by Committee by contacting the Case Officer. You can ring the Department to ascertain the date of the Committee meeting at which the application is due to be considered, please telephone (01656) 643155 or check 'milestones' on the application search of the planning page of the Council website or I will endeavour to notify you when the application you are interested in is to be reported to Committee. Whilst notification letters are sent out 6 days before committee, I am unable to guarantee the postal service. Please note that you will only have a short period in which to decide if you want to speak.

When can I see the Officer's report?

The report is available for public inspection from the Monday before the meeting at the Civic Offices, Angel Street, Bridgend or on the planning web page accessible via www.bridgend.gov.uk

How can I register my desire to speak?

If you wish to speak you should write to the Development Department as soon as possible and no later than **four clear working days** before the date of the Committee meeting including details of a day time telephone number. You also must confirm between 8.30am and 10.00am on the day of Committee that you still intend to speak or no longer wish to speak by phoning the Cabinet and Committee Officer on (01656) 643148.

How is the speaking organised?

Where more than one objector registers to speak, they will be encouraged to appoint a spokesperson, only one objector can speak per application. This could be a representative of the relevant Town or Community Council or County Borough Councillor not on Committee. Where no agreement can be reached by the objectors the Chairman will allot the time to the first person to register. The County Borough Councillor not on Committee speaks first and the objector speaks next.

How will the scheme work for Applicants/Agents?

Once it is known that an objector has registered to speak against an application the applicant or agent will be notified by the Development Department. If the applicant or agent wish to exercise the right of reply they must notify the cabinet and committee officer on tel (01656) 643148 between 10.00am - 10.30am the day of committee.

Time will be allowed for speaking immediately after the objector and Town/Community Council representative/ County Borough Councillor not on Committee or Cabinet Member has spoken. No guarantee will be given that an application will be determined at any particular Committee nor that an objector will actually speak, in which event the applicant or agent will not be able to speak.

How the scheme will work for Town and Community Councils?

Town and Community Councils will continue to be notified as at present of the receipt of all planning applications in their area. If the Town/Community Council resolve to object to any application and notify the Development Department as above, they will be entitled to address the Development Control Committee.

How long can I speak?

Objector, Applicant, Agent or County Borough Councillor not on Committee or Cabinet Member -**Up to three minutes maximum.** This limit will be strictly observed.

Extraordinary Applications

In the case of extraordinary applications Committee will consider whether public speaking rights need to be extended. If Committee agree objectors and applicants will each have up to a maximum of 10 minutes to address Committee. This time can be shared amongst different objectors or representatives on behalf of the applicant. County Borough Councillors not on Committee and the representatives of a Town/Community Council will continue to have 3 minutes to address Committee.

What can be said at Committee?

- Comments should be limited to relevant Planning issues already raised in the written representations or application. These may include:-
 - Planning policies, including those in the Development Plan;
 - Appearance and character of development, layout and density;
 - Traffic generation, highway safety and parking;
 - Overshadowing, overlooking, noise disturbance or other loss of amenity.
- Matters that cannot be considered by Committee include:-
 - Boundary disputes, covenants and other property rights;
 - Personal remarks (eg. The applicant's motives);
 - Rights to a view or potential devaluation of property.

The presentation of plans, drawings or other visual aids, the taking of photographs or the use of voice recording equipment will not be permitted. Speakers may not ask questions of others at the meeting, nor will others be allowed to ask questions of them unless the Chairman wishes to seek clarification.

Speakers can ask for plans/documents submitted with the application and for O.S. plans to be displayed but facilitating such requests will use up part of their speaking time.

Who else can speak?

Officers of the Council - to present report recommendation and provide advice.

Members of the Committee - to consider and reach decision.

When is the decision made?

Usually immediately after the discussion by a majority vote of the Committee Members. Sometimes a decision will be deferred for further information, revised plans or a Members' site visit. Deferred cases are normally brought back to the following meeting and if you wish to speak again, or someone else wishes to speak, then you will need to follow the above procedure. Please be aware that the Members have to balance different factors and come to an objective decision based on planning considerations. If they refuse an application contrary to the Officer's recommendation, they will need to be able to support that decision on appeal.

Can I appeal against the decision?

Only if you are the applicant.

What happens after the Committee?

The Committee's decision and the reasons for it will be confirmed to applicants and objectors in writing. Normally applicants (or their agents) will be notified of the decision within three working days, and objectors shortly afterwards.

What happens once a decision is made?

Persons who have written to the Council will be notified of the outcome in writing. If the applicant was not determined the way you would have wished, try to understand how it was looked at by the Council. The Development Control service is committed to best practice and encourages feedback from customers.

Louise Fradd
Corporate Director - Communities