

Section 7 - Probity in planning code of conduct

1. Purpose of the code

1.1 The purpose of this Code of Conduct is to regulate the performance of the Council's planning function principally as it applies to applications for planning permission, but also to the other areas within the terms of reference of the Committee pertaining to development management (viz Planning Enforcement, the development plan, listed buildings, conservation areas and heritage, tree preservation orders, planning obligations, advertisement control, Building Regulations).

The Code has the following objectives:

- to guide Members and Officers in dealing with Planning related matters.
- to inform potential developers, and members of the public generally, of the standards adopted by the Local Planning Authority in the performance of its Planning function.

1.2 This Code of Conduct is intended to be supplementary to the Code of Conduct for Councillors, Independent and other voting representatives adopted by the Council on the 10th April 2002 in accordance with the provisions of the Local Government Act 2000.

1.3 The purpose of this Code is to provide more detailed guidance on the standards to be applied in relation to Planning related issues.

1.4 The Code seeks to ensure that decision-making is governed by an open and transparent process. The Code does not seek to extend or alter the requirements of legislation or planning policies or guidance; it stands as a statement of intended practice as to conduct. The Code supports and follows the nine principles which underline the Council's Code of Conduct. These are:

- **1.4.1 Selflessness:** Members and co-opted members should serve only the public interest and should never improperly confer an advantage or disadvantage on each other or any person.
- **1.4.2 Honesty and integrity:** Members and co-opted members should not place themselves in official situations where their honesty and integrity may be questioned. They should not behave improperly and should on all occasions avoid the appearance of such behaviour.

- **1.4.3 Objectivity:** Members and co-opted members should make decisions on merit including making appointments, awarding contracts or recommending individuals for rewards or benefits.
- **1.4.4 Accountability:** Members and co-opted members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- **1.4.5 Openness:** Members and co-opted members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.
- **1.4.6 Respect for others:** Members and co-opted members should promote equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. Members should also respect the impartiality and integrity of the Authority's statutory officers and its other employees.
- **1.4.7 Duty to uphold the law:** Members and co-opted members should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.
- **1.4.8 Stewardship:** Members and co-opted members should do whatever they are able to do to ensure that their Authority has used its resources prudently and in accordance with the law.
- **1.4.9 Leadership:** Members and co-opted members should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

1.5

The Town and Country Planning Act 1990 requires Members of Local Planning Authorities to determine all planning applications in accordance with the adopted statutory development plan (in Bury's case, currently the Places for Everyone Joint Development Plan (PfE); the saved policies of the Unitary Development Plan (UDP) and the Greater Manchester Joint Minerals and Waste Plans) unless material considerations indicate otherwise. Material considerations in this context relates to land use planning matters on which Members will receive specific advice in the report to Committee. This responsibility for deciding must be performed without undue influence or personal interest. Members of Local Planning Authorities also have a duty to take into account representations made to the Council as a result of consultation with interested bodies or as a result

of public notices or neighbour notification. In doing so it is necessary to decide which representations are material to the decision to be made, and if so, what weight to attach to them. This conclusion should not be reached until all the facts have been presented in the officer report and considered by the Planning Control Committee or as otherwise delegated.

- 1.6 It is essential that Members of the Planning Control Committee do not give any commitment in relation to any planning matter prior to its consideration at the Committee meeting.
- 1.7 Members should clearly disclose their Membership to outside groups or social media groups where there is a stated aim or clear disposition to applications or proposals that would conflict with the neutrality or open mindedness that is required to fulfil the functions and duties of the Planning Control Committee. This may require Members to not take part in the committee meeting or not be a Member of the Planning Control Committee itself.
- 1.8 However, it is recognised, that Members will from time to time be approached individually by developers and objectors in relation to planning proposals. This Code is intended to assist Members in dealing with these situations and is designed to maintain the integrity and fairness of the decision-making process.
- 1.9 During Planning Control Committee meetings, using mobile phones can be construed as receiving or sending influencing messages during a debate. As such, the use of mobile phones (other than in an emergency) should be avoided unless the device is being used to view the agenda and reports.

2. The general role and conduct of Councillors and Officers

- 2.1 Members and Officers have separate and distinct, but complementary roles in dealing with planning matters. In general, it is the role of Members to make decisions and for Officers to ensure that the Planning Control Committee Members are advised of relevant material planning considerations.
- 2.2 In reaching planning decisions, Members are required to balance all the material considerations which apply in each case. These considerations will include, but will not be dependent upon, the views expressed by local residents. Applicants must have their proposals judged in the light of all relevant planning matters including planning policies.
- 2.3 Both Councillors and Officers are guided by Codes of Conduct.
- 2.4 The Council's Code of Conduct provides guidance and standards for Councillors and is contained within the Council's Constitution.

- 2.5 Officers are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Officers must always act impartially. In order to ensure that Senior Officers do so, the Local Government and Housing Act 1989 restricts the political activities of senior officers. It also enables restrictions to be set on outside activities, such as membership of political/parties and serving on another Council. Councils should carefully consider when officers are required to be subject to such restrictions and review this regularly.

All relationships of a private or business nature that planning officers may have with applicants applying for planning permission should be disclosed to the Director of Place.

In addition, under the Employees Code of Conduct, all officers should declare relevant interests and have them recorded in the Council's Register of Officers Interests kept by their Department. Democratic Services team can provide help and support on this.

3. Compiling the Development Plan

The statutory development plan is vital to the development management and planning process because it sets the criteria by which planning applications are endorsed. Therefore, great care is needed to ensure that any procedures in respect of the development plan are robust and transparent.

- 3.1 The arrangement for reviewing or replacing the development plan must be agreed by the Executive and set out details of any working groups / processes etc. that will be adopted to help the project.
- 3.2 Where known, any representations received from current (or ex) officers and members should be copied to the Monitoring Officer by the Assistant Director (Strategy, Planning and Regulation) / Place. This will ensure an objective evaluation of the comments before they are included in any formal reports for Members.
- 3.3 Finally, Members and officers must remember the requirements for disclosing interests and hospitality if working groups etc. are set up as set out in Section 4 of this Code.

4. Declaration and registration of interests

- 4.1 The Local Government Act 2000 requires any Councillor who has a prejudicial interest in any matter, including a planning application, to declare their interest and withdraw from any meeting during the consideration and determination of that matter. It is the duty of each Member to declare an interest and also to advise the Monitoring Officer of any new interest which will be added to the Register of Members interests.

- 4.2 The Code of Conduct sets down Councillor's responsibilities in declaring personal interests and when they can speak and vote on a matter, including the determination of planning applications.
- 4.3 A prejudicial interest is one which a member of the public with knowledge of its relevant facts would reasonably regard as so significant that it is likely to prejudice the members judgement of the public interest.
- 4.4 Any interest including a personal interest would include any relationship a Councillor or his/her family or close friends may have, for example as an employee or as a member of a club, group or voluntary organisation. A relationship to someone acting as an advisor or providing services to an organisation would also constitute an interest which should be declared. Membership of pressure groups, or expressions of view for or against an application before it went to Committee, would also be 'interests' in this context. Where the interest is personal but not prejudicial, a Member should declare the interest but can stay and take part and vote in the meeting.
- 4.5 The Code of Conduct states that a member with a prejudicial interest in a particular matter must:
- (a) Withdraw from a meeting unless a dispensation has been granted.
 - (b) Not exercise functions in relation to that matter.
 - (c) Not seek to improperly influence a decision about the matter
(NOTE: the Code of Conduct sets out exceptions to this)

5. **Hospitality**

- 5.1 During the course of carrying out their duties, Councillors and Officers maybe offered hospitality from people with an interest in a planning proposal.
- 5.2 If possible, such offers of hospitality should be politely refused. If it is felt necessary to accept hospitality the Members should comply with the Code of Conduct whereby a member must within 28 days of receiving any gift or hospitality over the value of £25.00 provide written notification to the Monitoring Officer of the existence and nature of that gift or hospitality. Another option could be to contact the Mayoral Office and see if the gift could be donated to one of the Mayoral charities.
- 5.3 The Registers will be reviewed by the Monitoring Officer at regular intervals. For further details Members and Officers should contact the Democratic Services team democratic.services@bury.gov.uk

6. Lobbying of and by Councillors

- 6.1 The integrity of the decision-making process must not be impaired, either in reality or in perception through the lobbying of Members of the Planning Control Committee. It is important that any approaches by lobbyists are recorded and that any representations made to Members of the Planning Control Committee form part of the public information leading to any decision. This applies equally to submissions made by or on behalf of applicants for planning permission and to other interested parties objecting to or concerned about proposals.
- 6.2 It is quite common for applicants or other interested parties to wish to discuss a proposed development with Elected Members before a planning application is determined. However, unless care is exercised by all parties, it can undermine impartiality and call into question the integrity of Councillors. Therefore to ensure that lobbying is seen in a positive way:-
- (a) Members of the Planning Control Committee should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments at the relevant meeting of the Planning Control Committee.
 - (b) Members of the Planning Control Committee should restrict themselves to giving procedural advice and suggest to those who are lobbying that they should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the Committee.
 - (c) Any political group meetings prior to the Planning Control Committee shall not be used to decide how Councillors should vote.
 - (d) Councillors on the Planning Control Committee should not organise support for, or opposition to, a planning application, and avoid lobbying other Councillors.
 - (e) Members of the Council should not put pressure on officers for a particular recommendation.
 - (f) All documents received by Councillors from applicants or objectors must be notified to the Assistant Director (Strategy, Planning and Regulation) / Place.
 - (g) Councillors who are not Members of the Planning Control Committee must not lobby Members of the Planning Control Committee. This is particularly significant given the likelihood of being approached by residents and constituents seeking support for or against applications. Any views may be expressed by Members at the Planning Control

Committee (see Paragraph 7) but no attempt should be made to make contact with Members of the Committee before the meeting. In addition, Councillors who are not members of the Planning Control Committee may express an opinion but must do so to the Assistant Director (Strategy, Planning and Regulation) / Place in writing. They can also suggest how constituents can support or oppose an application (Appendix 2).

- (h) Councillors who are unsure whether an interest should be declared should seek the advice of the Council's Monitoring Officer although, as indicated in Section 4, the decision ultimately rests with the Councillor themselves.

6.3 In addition to the above, the circulation of unofficial papers (i.e. those not previously considered by Officers) is prohibited at Committee Meetings. Planning applications must be determined on the basis of the documents and information formally submitted and on which interested parties have had the opportunity to comment.

6.4 Only submissions from applicants, agents or objectors, which are formally received by the Local Planning Authority can properly be taken into account when making a decision. Also, the last day for the submission of objections to a scheme will be the midday of the Friday, prior to the Planning Control Committee meeting. If the meeting day is changed from a Tuesday the same timescales would be adhered to.

7 Ward Councillors

7.1 Ward Councillors may speak on applications affecting their Ward (This could include a neighbouring ward(s) outside the application area which can be impacted) at meetings of the Planning Control Committee and this is subject to the Chair's discretion.

8 Disclosure of information

8.1 The large increases in land value that are generated by planning permission means that site development can sometimes involve an element of speculation. Any unofficial indication that planning permission is likely to be granted can lead to significant outlay by developers in preparing proposals.

8.2 Unofficial disclosure of information can lead to accusations of bias because information has been divulged to a developer. This could lead to complaints by the Developer if the information revealed is incorrect.

~~reference for individual members~~ prior to the determination of the application and Council processes should follow clear adopted procedures.

9 Development proposals submitted by Councillors and Officers and the Council's own development

9.1 Planning applications submitted by Councillors and officers and their close friends and relatives, can easily give rise to suspicions of impropriety, as can proposals for the Council's own development even though it is perfectly legitimate for such proposals to be submitted. Proposals can take the form of either planning applications or development plan proposals. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of bias.

9.2 In such cases, the following should apply:

- (a) Serving Councillors who act as agents for people pursuing a planning matter within their own Local Authority should play no part in the decision-making process for that proposal. Similarly, should they submit their own proposal to the Authority they serve and they should take no part in its processing.
- (b) The Council's Monitoring Officer should be informed of such proposals.
- (c) Proposals should be reported to the Planning Control Committee as main agenda items and not dealt with by officers under delegated powers.
- (d) Proposals for a Council's own development should be treated in the same way as those by private developers in accordance with the national Planning policy Framework and the National Planning Practice Guidance.

9.3 Certificates of Lawful Development or Prior Approvals are not planning applications but instead are confirmations on whether planning permission is required or would otherwise comply with regulations set out within the Town & Country Planning (General Permitted Development)(England) Order 2015. These are subject to very specific considerations and have compressed timeframes, otherwise they are deemed approved. As such, determination will not sit comfortably with the Planning Control Committee cycles and require a quicker decision framework. Where Councillors or officers submit these specific types of proposals, delegated decisions would be required to determine them and must be signed off by the Executive Director (Place).

10 Pre-application discussions

10.1 Discussions between a potential applicant for planning permission and the Council prior to the submission of an application can be of considerable benefit to both parties and is generally encouraged as assisting the planning process. However, it would be easy for such discussions to become, or be seen to become, part of a lobbying process.

10.2 Pre-application proposals are subject to the Environmental Information Regulations 2004 (EIR) and Freedom of Information Act 2000 (FOI). The default position is one of disclosure where requests are made about information. However, it is acknowledged that pre-application proposals and some elements of planning applications will be exempt from disclosure subject to assessment of the particular regulations and nature of the information involved.

10.3 In order to avoid such problems, pre-application discussions should take place within the following guidelines:

- a) It will be made clear at the outset that discussions will not bind a Council to making a particular decision and that only professional personal and provisional views, based upon the development plan, can be given.
- b) A written note of the discussion will be taken and placed on file. A note should also be taken of similarly potentially contentious telephone discussions.
- c) Advice should be consistent and based upon the development plan and material planning considerations with consistent interpretation of planning policies between planning officers.
- d) All meetings with applicants will be arranged by officers who will ensure that the Council's guidance is followed.
- e) For high profile or contentious meetings not involving Members, more than one officer should attend.
- f) Wherever possible meetings should be held in the Council Offices rather than in the developer's premises.
- g) A follow-up letter re-emphasising the non-binding nature of discussions should be sent for major or contentious applications.
- h) Once a planning application has been lodged and before it has been determined by the Council, any meetings between Members of the Planning Committee and the applicant are prohibited.

10.4 To maintain impartiality, it is preferable for Members to not take part in pre-application discussions. However, should there be occasions where Members are involved, they should always be advised by the appropriate officers and the discussions recorded in the officer's file. If Members do give their initial reaction, they should qualify it by indicating that they will only be in a position to take a final decision (Only when they have a fair and open mind) once the Planning Control Committee has sat.

11. Views of consultees

11.1 The Assistant Director (Strategy, Planning & Regulation) / Place must ensure that:

- a) All requests for comments from consultees should be logged within the respective case file.
- b) Responses from individuals should also be logged.
- c) Consultees' comments and objections shall be set out in reports submitted to the Committee or the respective scheme of delegation for consideration.
- d) Consultees comments (where they are relevant to planning) are material considerations in the planning balance and must have appropriate weighting in the decision making process.

12. Officer reports to the Planning Control Committee

12.1 Members are required to arrive at a decision on granting or refusing planning permission by assessing the planning criteria and by excluding non-planning considerations. This expectation leaves no reason to abstain from the voting process.

12.2 The reports of officers to Members must be accurate and cover all relevant points.

12.3 Members are equally expected to make appropriate time to read reports thoroughly before arriving at the meeting and can seek clarification on any issues prior to the meeting or at the pre-meeting briefing prior to the main meeting taking place.

12.4 Officer reports should:

- a) contain a section on the relevance of the development plan, a description of the site and any related planning history and all other identified material considerations

- b) cover, amongst other things, the substance of any objections received and the views of those who have been consulted or notified or responded
- c) incorporate a written recommendation for Members' consideration. Oral reporting (except to update a report) should be rare and carefully minuted where it does occur.
- d) should contain a technical appraisal which clearly justifies the recommendation.
- e) if the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.
- f) outline any related planning obligations by or discussed with the applicant.

13. Public speaking at Committee

- 13.1 As part of the Council's initiative to encourage more involvement in its work, the Planning Control Committee has a policy of listening to views about planning proposals and has produced the "Planning for Bury Have Your Say" guidance which explains public speaking at Committee.
- 13.2 Members of the public are invited to attend the meeting and take part by speaking, explaining their concerns, either for or against, a proposal, or simply by listening to the Committee debate. People should ideally register their intention to speak with Democratic Services prior to the committee meeting taking place. Otherwise, addressing the Committee should be at the Chair's discretion.
- 13.3 Each item is introduced by the Chair who then invites comments from the public. The standard practice should be that one person is allowed to speak for and one person against a proposal. If more people are interested and wishes to speak, they will be asked to agree on designating a single spokesperson. Exceptionally, more than one person may be able to speak but at the discretion of the Chair. The Chair should say at the end of each presentation that another speaker for or against is permitted to speak but can only raise items that have not been covered by the earlier speaker. (NB. Ward Councillors not on the Committee may speak on applications affecting their Ward at meetings for no more than three minutes and may attend site visits) but they should not address any Members of the Planning Control Committee during the visit.

13.4 Each speaker has a maximum of three minutes so that it is fair for all parties involved. The Chair has the right to stop a speaker after their time limit has been exhausted.

14. Decisions contrary to Officer Recommendations and/or the Development Plan

14.1 The Town and Country Planning Act 1990 requires that where the development plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise (Section 54A).

14.2 Applications where the Committee intend to approve items as departures from the development plan will have been advertised as such and be identified in the officer report. Where necessary the matter may be the subject of referral to the appropriate Secretary of State.

14.3 Where the Committee makes a decision contrary to the officer's recommendation (whether for approval or refusal), a detailed minute of the Committee's reasons will be made and copy placed on the application file. The officers attending the Committee meeting should also be given the opportunity to explain the implications of a contrary decision.

14.4 Members may also wish to consider referring the application back to the Assistant Director (Strategy, Planning & Regulation) / Place for further information or advice.

15. Committee Site Visits

15.1 Site visits can be useful to identify features of a proposal which may be difficult to convey in a written report or via the use of photographs/drawings, but site visits can cause delay, additional costs and should only be used exceptionally where the expected benefit is substantial. A valid planning reason needs to be given if an application is deferred for a site visit at the Planning Committee meeting and any visit should be voted on by the Committee members.

15.2 Site visits should:

- be used exceptionally and where the expected benefit could be substantial. This does not mean there should be no site visits (but they should meet the criteria in this paragraph 16.1);
- a) be made only for planning reasons;
- b) focus on factors exclusively relevant to the application and subsequent planning decision;

- c) not be an opportunity for further engagement of the applicant or members of the public; i.e. it should not be an opportunity for lobbying, public address, debate, submission of new information and hearing representations from members of the public or the applicant (this being a matter for when Committee formally sits);
- d) not be used an opportunity to defer consideration or determination of an application;
- e) should involve the whole Committee, though it is recognised that this may not always be possible;
- f) always involve officer representation;
- g) be carefully conducted in order that there can be no accusation of bias,
- h) re-determination or other impropriety against Members of the Committee;
- i) be monitored in terms of costs and impact on planning decisions;
- j) be led by the Chairman and with advice from appropriate officers and the said officers should be present at all times during the arranged visit.

15.3 It is important to remember that site visits are 'visits' and not meetings with applicants and other members of the public. Site visits are an opportunity for Members of the PCC to see the site and have the proposal explained by the appropriate planning officer(s), with an opportunity to ask questions of the officer about the proposal. The site visit is not an opportunity to engage directly with members of the public, Ward Councillors not on the Planning Control Committee, the applicant or any consultees, landowners, supporters or objectors to a planning application.

15.4 A protocol for the site visits is attached at Appendix 1.

16. Regular review of decisions

16.1 On an annual basis ideally, arrangements will be made for Members of the Planning Control Committee to visit a sample of implemented planning permissions in order to assess the quality of the decisions. This is usually conducted at training sessions where Members undertake with site visits of outcomes and includes examples from a broad range of categories of development such as major and minor development, permitted departures, upheld appeals, listed building works and enforcement cases.

16.2 The Planning Control Committee should formally consider this review

and decide whether it gives rise to review any existing policies or practices.

17. Complaints and record keeping

- 17.1 The Council has an approved Complaints Procedure which will be followed in relation to public complaints about the handling of planning applications and planning matters generally.
- 17.2 Details of the Complaints Procedure and copies of complaint forms are available online or from the Main Council Reception, Town Hall, Knowsley Street. Complaints disagreeing with a formally issued planning decision is exempt from the complaints process as formal decisions can only be legally challenged.

18. Sanctions

- 18.1 The purpose of this Code is to provide guidance to general Members, and Members of the Planning Control Committee in particular and officers, in relation to the functioning of a Council's planning function. The application of and adherence to the Code is intended to build public confidence in the Council's planning system and to produce a strong platform for planning decision making. The Code does not remove the responsibility of Members to exercise their statutory discretion to determine the merits of individual applications or proposals.
- 18.2 A failure to adhere to the code may give rise to a range of potential consequences to a Council, and individual Members, especially if this results in a pattern of inconsistency. The normal sanction of the democratic process is through the ballot box. Councillors may make a reputation in their community not only for their beliefs but also for their general conduct. Consistency and fairness are important qualities in the public eye and they are vital to the conduct of a Planning Control Committee. Beyond the normal democratic process, a number of specific consequences can be identified.

19. The Local Government Ombudsman

- 19.1 Although the Local Government Ombudsman will not investigate the balanced argument in any planning decision, she/he may agree to investigate a planning complaint if it concerns the manner in which a

decision was taken. If it is found that an injustice has been caused by maladministration in the light of statutory or established Council procedures, they will recommend redress which may take the form of compensation or new procedures. Where the Local Government Ombudsman makes a finding of maladministration on the basis of a breach of the National Code of Local Government Conduct, then the report may name the individual Member and give particulars of the breach.

20. Appeals to the Secretary of State

- 20.1 An applicant who has been refused planning permission or a condition attached to a proposal that they disagree with, has a right of appeal to the Secretary of State. Any decision issued on behalf of the Secretary of State is made away from the Council and considers each case in line with published regulations, guidance and policy surrounding appeals processes. If an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable, the appellant's costs may be awarded against the Council. Otherwise, an appointed Inspector will decide an appeal and may agree or disagree with the original decision based upon the planning merits.
- 20.2 Appeal decisions are monitored by the Secretary of State. This includes overturns, the numbers of and types of appeal decisions. This is discussed more in 23 below.

21. Judicial Review

- 21.1 If objectors are convinced that the Council, in determining to grant an application, did not observe their statutory obligations to carry out all necessary procedures, base their decision on the development plan and take into account all representations and matters into account, they may apply for judicial review of the decision, which might result in the decision being quashed. In such circumstances, where a claim is upheld, it would be normal for the costs to be awarded against the Council.

22. Powers of the Secretary of State

- 22.1 The Secretary of State possesses a range of powers that could be exercised where a local planning authority appears to be making inconsistent decisions or decisions which are seriously in conflict with national and development plan policies. This could involve a use of the power to "call in" applications, whereby an application would be determined by the Secretary of State following a public inquiry. Where permission has already been granted by the Council, powers exist to revoke or modify permissions, or to require

discontinuance of a land use, which if exercised, would give rise to a liability to compensate on the part of the Council. Also as part of the Government's drive to improve planning performance, there are a series of monitored measures that Local Planning Authorities are assessed against. These include:-

- a) Speed of decision making (8/13 or 16 weeks application depending)
- b) Quality of decision making, including where Committee overturn recommendations which are subsequently upheld on appeal,
- c) appeal performance generally
- d) Numbers of Committee decisions (including whether the scheme of delegation is suitable)

22.2 Where the specific performance measures are considered to be failing over the relevant period and do not meet Government identified thresholds, the Local Planning Authority can be placed into Special Measures, which would enable applicants to submit applications to the Planning Inspectorate (PINS) to determine, instead of the Local Planning Authority. Planning fees would be paid directly to PINS, whilst the administrative processing would still be borne by the Council. This effectively removes the decision making power away to PINS.

22.3 The Local Planning Authority would then be required to devise and deliver a performance improvement plan in aimed at addressing shortfalls against specific measures. Close monitoring by PINS would then ensue until there is confidence that the issues have been addressed long term.

22.4 Under the Government's Planning Guarantee, Local Planning Authorities are required to issue timely decisions on all applications, reflecting timescales set out in regulations. Processing of applications including when decisions are made outside of the expected timeframes and not within agreed period of time, can result in fees being required to be refunded. Determination dates set out in officer reports and are therefore critical to note.

Appendix 1

Protocol for Site Visits

- 1.1 In order to ensure that all official Member Site Visits relating to planning matters are dealt with consistently and fairly, the following protocol and code of practice will apply (it should be noted that reference to job/department titles of Council and officers shall include successors in title and/or general functions):
- 1.2 Site visits shall, in accordance with its usual protocols, only be held following either:-
 - a) a majority resolution of the Planning Control Committee whom, on hearing the application and representations there to, by majority consider that a visit will for planning reasons be of substantial benefit to the decision making process; or
 - b) as may otherwise be authorised by the Chair in consultation with a Development Manager or other appropriate planning officer, where for example, a planning application is a major development, has received a significant number of objections, or is unusual in its nature to warrant a visit by Members of the PCC in the opinion of the said officers.
- 1.3 An arranged site visit should not take place until the Agenda of the Planning Control Committee and the reports have been published. Following publication of the Agenda, the site visit may take place at any reasonable time during the working day (including the day of Committee) before the Committee formally convenes to decide upon the related application.
- 1.4 A written record of the decision to attend or not attend a site visit should be formally recorded by Democratic Services.
- 1.5 Site visits are to be attended by appointed Members of the Planning Control Committee along with the appropriate Council officers. Where other ward members do attend, they shall not address members during the site visit.
- 1.6 For the purpose of making logistical arrangements such as access to the site, the applicant shall be notified in writing of the proposed date and time of the site visit, but shall be informed that they, or any landowner or other interested person(s) should not approach or attempt to speak to or engage with any Member or officer of the Council about the application immediately before, during or immediately following the site visit. Where it is not possible to access the site for any reason, Members will be directed

by officers to appropriate vantage points. No other person is required to be notified of the date and time of the site visit.

- 1.7 Site visits are an integral part of the committee decision-making procedure. Therefore, all Members of the Planning Control Committee should, where possible, attend the site visit together with appropriate officers and not individually, or in small or separate groups.

2. Procedure at the Site Visit

2.1 The site visit will be conducted in the following manner:

- a) officers on the site visit should explain to any person present that they should not approach or attempt to engage with the Members on the site visit.
- b) The Development Manager and/or other appropriate planning officers shall be invited by the Chairman to explain the proposal to the Members, which shall include a summary of the relevant objections to the proposal.
- c) Members shall then be invited by the Chairman to ask any questions concerning the proposal to the respective officer(s)
- d) The Development Manager or other appropriate planning officer(s) shall then where they consider, in the context of the particular planning application, that it is necessary, reasonable, appropriate and practicable, guide Members to various parts of the site or vantage points to view the site.
- e) Members should remain together at all times during the site visit and should not attend separately on their own or in small or separate groups.
- f) Members shall during any site visit respect and adhere to any health and safety and other on-site requirements of the landowners or operators of facilities on the land where applicable (for example, when viewing an operative industrial facility or active building site)
- g) A record shall be made by the Democratic Services officer of the site visit.

- h) No decision on any application shall be taken at a site visit and Members should be mindful at all times that they should not provide any indication of the likely outcome of the application.
- i) Members shall be mindful at all times of the need to avoid allegations of predetermination and bias, as well as avoiding the fettering of discretion in relation to a planning application; the need to uphold probity in planning decisions is of paramount importance for Members of the Committee, both individually and collectively.
- j) Members should not allow themselves to be approached or addressed by any persons other than appropriate officers. It is accepted that this can be difficult and even unavoidable at times. Where an attempt is made by any such other person, including the applicant and if applicable any Councillors not on the Planning Committee, Members should politely, but firmly and immediately, discourage and curtail any such dialogue or any other form of engagement and react in accordance with the guidance on lobbying in part 6 to this Protocol, above. This should then be reported to Democratic Services. Remaining together on the site visit at all times in accordance with e) above will minimise the risk of being approached.
- k) In order to ensure that, as far as possible, all Members of the Planning Committee have the same information before them, the Development Manager or other appropriate planning officers shall provide a brief summary update to Members of any significant additional information or issues raised at the site visit prior to formal deliberation by the Members on the related planning application.
- l) Members of the Planning Control Committee that are not able to attend the arranged site visit should, following the update by the Development Manager, or other appropriate planning officers in accordance with k), above, consider whether they feel capable of making a decision in relation to the application, having not had the benefit of the site visit themselves. The non-attendance of Members at the arranged site visit shall not of itself mean that Members should not be able to decide on the related application, simply that they themselves should consider whether probity in planning is being upheld and whether in the circumstances they feel they are able to make an informed, objective and appropriate decision on the basis of the information before them.

Appendix 2

1 Helping Constituents to oppose or support Planning Applications

- 1.1 All Members of the Council will be approached by their constituents about planning applications. With the exception of Members of the Planning Control Committee, most Councillors may consider lending their support or opposition to a planning application.
- 1.2 Any Planning Control Committee Member who does support or oppose an application cannot then take part in or vote on this matter, including should it be considered by a Council Planning Control Committee at a later date.
- 1.3 In any event, Members may find the following tips and information useful in helping to advise and work with constituents on planning applications.

- Anyone can comment on an application.
- Plans and supporting information can be inspected on the Council's website.
- Technical Officer advice is available by contacting the case officer.
- All written comments must be made to the Assistant Director (Strategy, Planning & Regulation) Place in order that they can report them to Committee.
- Examples of the types of matters which cannot be taken into account by the Planning and Control Committee are:
 - Disputes about encroachment across boundaries
 - Worries about disturbance whilst construction work is underway.
 - Concern about competition from other traders
 - Impact on property values
 - Views
 - Private Rights of Way/civil matters
- Examples of the types of matters which can be taken into account by the Planning Control Committee are:
 - Issues affecting individual amenity and amenities of the wider area
 - Affect an outlook and privacy
 - Design and appearance
 - Traffic and parking

- Noise and pollution

1.4 Officer reports will cover relevant material planning considerations within the item report. Always seek clarification on any matters that are considered to be complex or not understood, so that decision making is fair, transparent and fully informed and justified.