



CHEL TENHAM

BOROUGH COUNCIL

Notice of a meeting of Standards Committee

**Tuesday, 7 July 2015
10.00 am**

Sherborne Room - Municipal Offices

Membership	
Borough Councillors:	Anne Regan (Vice-Chair), Garth Barnes, Bernard Fisher (Chair), Simon Wheeler, Jacky Fletcher, Roger Whyborn and John Payne
Independent Members:	Mr Martin Jauch, Mr Duncan Chittenden

Agenda

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES OF THE LAST MEETING** (Pages 3 - 4)
To approve the minutes of the meeting held on the 11 July 2014
4. **PLANNING PROTOCOL** (Pages 5 - 36)
Report of the Borough Solicitor and Monitoring Officer recommending approval of a revised Planning Code of Conduct for adoption by the Council
5. **SOCIAL MEDIA PROTOCOL FOR MEMBERS** (Pages 37 - 50)
Report of the Borough Solicitor and Monitoring Officer attaching a draft Social Media Protocol for Members for consideration by the committee and recommendation to the Council for adoption
6. **WORK PLANNING**
Consider what matters, if any, the committee could consider at future meetings:

21 October 2015

24 February 2016

13 July 2016

7. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

The Committee is recommended to approve the following resolution:

“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, Part 1, Schedule 12A (as amended) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual

8. REVIEW OF COMPLAINT

A report of the Monitoring Officer

(Pages 51 - 54)

9. EXEMPT MINUTES

To approve the exempt minutes of the meeting held on the 11 July 2014

(Pages 55 - 58)

10. ANY OTHER BUSINESS

11. DATE OF NEXT MEETING

21 October 2015

Contact Officer: Saira Malin, Democracy Officer, 01242 775153

Email: democratic.services@cheltenham.gov.uk

Standards Committee

**Friday, 11th July, 2014
10.00 - 11.20 am**

Attendees	
Borough Councillors:	Garth Barnes, Bernard Fisher (Chair), Roger Whyborn and John Payne
Independent Members:	Mr Martin Jauch, Mr Duncan Chittenden
Also in attendance:	Sara Freckleton

Minutes

1. **APOLOGIES**
Councillors Regan, Fletcher and Wheeler had given their apologies.

2. **DECLARATIONS OF INTEREST**
None declared.

3. **MINUTES OF THE LAST MEETING**
Resolved that the minutes of the last meeting held on 8 April 2014 be agreed and signed as an accurate record.

4. **OVERVIEW OF THE WORK OF COMMITTEE**
The Monitoring Officer gave a short presentation on the work of the committee and an update on the implementation of the Conduct Regime pursuant to the Localism Act 2011.

5. **REVIEW OF PROTOCOLS**
The Borough Solicitor and Monitoring Officer, Sara Freckleton introduced the report. The report sought agreement of the Committee to the methodology and timescale for the review of the “Probity in Licensing” Protocol which was adopted by the Council in October 2006. The report set out the terms of reference and the membership which included three members to the Standards Committee.

Resolved that

i) a “task and finish” working group of members and officers is established to review “Probity in Licensing” and prepare a revised version for consideration by the Standards Committee. The composition and terms of reference of the working group will be as set out at paragraph 3.3 of this report.

ii) Councillors Fisher, Regan and Mr Martin Jauch join the working group as representatives of the Standards Committee

6. **LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION**

Upon a vote it was unanimously

RESOLVED that in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 1 and 2 of Part 1, Schedule 12A (as amended) Local Government Act 1972, namely: Information relating to an individual/likely to reveal the identity of an individual.

7. REVIEW OF COMPLAINTS

The Monitoring Officer gave a report on a review of complaints. The committee noted the decisions taken and did not consider that there was any further action which could appropriately be taken and neither were there any training needs identified for the wider Council membership arising from these complaints.

8. EXEMPT MINUTES

Resolved that the exempt minutes of the last meeting held on 8 April 2014 be agreed and signed as an accurate record.

9. ANY OTHER BUSINESS

The Borough Solicitor and Monitoring officer explained that following the recent elections and subsequent changes to committee membership there was a need to confirm which members from this committee would be on the Planning Code of Conduct Group.

Resolved that Councillors Fisher, Payne and Mr Duncan Chittenden join the working group as representatives of the Standards Committee

10. DATE OF NEXT MEETING

The next meeting is scheduled for 22 October 2014.

Chairman

Cheltenham Borough Council
Standards Committee – 7 July 2015
Planning Protocol

Accountable member	Cabinet Member Corporate Services, Councillor Jon Walklett
Accountable officer	Borough Solicitor, Sara Freckleton
Key Decision	No
Executive summary	The Planning Code of Conduct which was adopted by the Council in October 2006 has been reviewed and amended by a Working Group of Members. The Working Group has suggested changes to the Code to reflect the changes to legislation, Code of Conduct and best practice. The draft amended Planning Code of Conduct is attached at Appendix 1 for approval by the Committee and recommendation to the Council.
Recommendations	That the Committee approves the revised Planning Code of Conduct attached at Appendix 1 and recommends its adoption to the Council.

Financial implications	No financial implications. Contact officer: paul.jones@cheltenham.gov.uk , 01242 775154
Legal implications	None specifically arising from the report. Contact officer: sara.freckleton@teWKesbury.gov.uk , 01684 272011
HR implications (including learning and organisational development)	The Planning Code applies to both Councillors and planning officers who become involved in operating the planning system. The successful operation of the planning system relies on mutual trust and understanding of each other's role. It also relies on both Members and Officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so. It is therefore important that all Members and employees involved in the planning system are made aware and adhere to the revised code. Contact officer: julie.mcarthy@cheltenham.gov.uk , 01242 264355

1. Background

The Standards Committee established a Working Group comprising members of the Standards and Planning Committees assisted by officers from the Planning Department and One Legal to review the Planning Code of Conduct.

- 1.1 The current Planning Code of Conduct (within part 5 of the Council's Constitution) was adopted by the Council in October 2006. Its purpose is to provide more detailed guidance for members involved in the planning process and is intended to complement the Cheltenham Borough Council Code of Members' Conduct.
- 1.2 There have been significant changes to the Standards / Code of Conduct regime since the adoption of the Planning Code of Conduct in 2006 as well as changes to planning legislation and the Council's practices and therefore the Working Group was asked to review the Planning Code to bring it up to date in respect of the Code of Members' Conduct and recent best practice.

2. Revisions to the Planning Code of Conduct

- 2.1 The Working Group has met on a number of occasions and the revised Planning Code of Conduct attached at Appendix 1 is the version which is now, subject to approval by the Standards Committee, recommended for adoption by the Council.
- 2.2 The revised Planning Code follows the format of the current one in generally providing bulleted points stating "Do" or "Do not" under each of the sections. Certain points are of relevance to all Members dealing with planning matters (whether or not they are on the Planning Committee or a substitute) and others will only be relevant to members of the Planning Committee (including substitutes). The draft revised Planning Code of Conduct now flags up which parts will be "applicable to ALL members" and which are "applicable to members of the Planning Committee".
- 2.3 In the draft revised Planning Code of Conduct there has been a slight re-organising and re-naming of the sections and a significant extension to the Introduction, with a summary of the planning process and a planning process flowchart added as Appendix 1 and 2 to the Code.
- 2.4 The main substantive changes to the revised Planning Code are as follows:-
- 2.5 Under the section previously titled "Contact with Applicants, Developers and Objectors" in the current Planning Code of Conduct (now titled "Engagement – Contact with Applicant, Developer, Supporters, Objectors and the Media), there is a part headed "In addition in respect of presentations by applicants/developers" which did not set out any provisions regarding the appropriateness or otherwise of such presentations being made in private or in public or as regards any particular stages of the planning process.
- 2.6 In considering more recent guidance the Local Government Association/Planning Advisory Services "Probity in planning for councillors and officers" and the practice of other local authorities, this section has been re-written and a formal process and expanded guidance has been appended as an Appendix 4.
- 2.7 The section titled Site Visits has been re-written to reflect the Council's current practice that generally all sites on a Planning Committee agenda will be visited rather than as set out in the current Planning Code of Conduct which would reflect a position whereby this is not the case. A Sites Visits Practice Note has been added as an Appendix 3 to provide further clarification.
- 2.8 The section titled Training has been extended to provide more detail within the Planning Code of Conduct as to the extent of the mandatory training requirements.
- 2.9 Members of the Planning Committee have been consulted on the revised Code of Conduct attached at Appendix 1 and one comment was received in connection with section 4 of the Code on the basis

that the penultimate bullet point requires clarification as to what this actually means as it otherwise seems to be excessive. An amendment is therefore suggested at section 4 in response to that comment. The suggestion is to delete the penultimate bullet point (shown by striking through) and to replace it with the wording shown in italics in the final bullet point of that section.

3. Reasons for Recommendations

3.1 To ensure that the Planning Code of Conduct is up to date and fit for purpose.

4. Consultation and feedback

4.1 Members of the Planning Committee have been consulted as set out in paragraph 2.5 above.

Report author	Contact officer: sara.freckleton@tewkesbury.gov.uk 01684 272011
Appendices	1. Planning Code of Conduct – Appendix 1
Background information	Report to and Minutes of the Council on the 9 th October 2006. Planning Code of Conduct Cheltenham Borough Council Code of Members' Conduct

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PART 5

Codes and Protocols

Part 5D – Planning Code of Conduct

(xx June 2015)

Introduction

1. Relationship to the Members' Code of Conduct
2. Development Proposals and Interests under the Members' Code of Conduct
3. Relationship with Officers
4. Engagement – Contact with Applicant, Developer, Supporters, Objectors and the Media
5. Fettering Discretion in the Planning Process
6. Lobbying of Councillors
7. Lobbying by Councillors
8. Site Visits
9. Public Speaking at Meetings
10. Decision Making and the Voting Process
11. Training

Introduction

This Code of Conduct applies to all members dealing with planning matters, with some sections applying to all members of the Council and other sections applying to members on the Planning Committee (including substitutes).

Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It is often highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions). This is reinforced by the legal status of development plans and decision notices. It is essential, therefore, that the planning process is characterised by open and transparent decision-making.

One of the key purposes of the planning system is to ensure development takes place through a framework whereby the public interest is well represented at every point from the preparation of Development Plans and policies, the determination of planning applications and in undertaking enforcement action. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable planning reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.

This Planning Code applies to both Councillors and planning officers who become involved in operating the planning system – it is not therefore restricted to professional town planners and Planning Committee members. The successful operation of the planning system relies on mutual trust and understanding of each other's role. It also relies on both Members and Officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

The aim of this code of good practice: 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 and provide the public with a transparent explanation of the planning process and the roles and responsibilities within that process.

The key purpose of Planning: to control development in the public interest. One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the

financial value of landholdings and quality of their settings. Opposing views are often strongly held by those involved,

A summary of the planning process and a planning process flowchart is appended at Appendix 1 and Appendix 2 respectively.

Our role as a Local Planning Authority (LPA): the National Planning Policy Framework says that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

Further, the Framework states that Local Planning Authorities should look for solutions rather than problems, and decision-takers at all levels should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure development that improve the economic, social and environmental conditions of the area.

In addition, the Human Rights Act provides additional safeguards for citizens, and encourages the application of best practice. Article 6 is concerned with guaranteeing a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations.

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.

Your role as a Member dealing with planning matters: to conduct yourself fairly and transparently in representing the views of local constituents and declare any interest you may have, in accordance with this Code and the Members' Code of Conduct.

Your role as a Member of the Planning Committee: to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. In particular, Members should not favour any person, company, group or locality, nor put themselves in a position where they appear to be doing so.

The role of a Planning Committee member involves:

- Attendance at Planning Committee meetings
- Helping to build and protect the reputation of the planning committee by acting reasonably and on planning merits
- Taking into account all the material considerations;

- Understanding, and being able to interpret, all the plans and policies that are relevant to making your decision. This includes national and local plans, policies and guidance. This will require a Planning Committee members and substitute members to have initial, and on-going training;
- Having regard to wider Council strategic plans and objectives, and financial aspects e.g. economic growth strategies, any proven need for house building and numbers;
- Arriving at a decision that is sound and can be justified – especially at appeal;
- Listening to people on both sides and being fair to all;
- Being aware of the duty to objectors and the duty to applicants as well;
- Making a balance between all you have heard and read, including views of Officers and your Councillor colleagues and making a sound reasonable and justifiable decision;
- Determining cases in a consistent manner

The role of officers: to handle applications in a professional and balanced way. They will visit the site and consider all representations made about an application. Officers involved in the processing of applications 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 officer's 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.

Every application is dealt with by a case officer who will handle the application from validation through to determination and beyond. Members will be advised who the case officer is through the weekly list of planning applications; this is emailed to all members.

Members should not put pressure on officers to put forward a particular recommendation but are encouraged to discuss proposals with the case officer should they wish to ask questions, to ask for clarification on relevant issues or gain professional advice on matters relating to the receipt and consideration of planning applications and the process of considering applications through delegated decisions or Planning Committee.

Officers will always prepare a report and recommendation for members and will also attend the Planning Committee meeting to answer questions and support their recommendation

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less

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

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

1. Relationship to the Members' Code of Conduct

Applicable to ALL members

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

- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision which may lead to that decision being quashed; and
 - yourself at risk of either being named in a report made to the Standards Committee, Council or the Local Government Ombudsman or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Monitoring Officer.

- **Do** raise and escalate concerns in relation to potential breaches of the Members' Code of Conduct or this Code of Good Practice. Officers and Members at all levels of an organisation need to be prepared to speak up and challenge inappropriate behaviour where the authority's integrity is at risk.

2. Development Proposals and Interests under the Members' Code

Applicable to ALL members

- **Do** not use your position improperly for personal gain or to advantage your friends or close associates.

- **Do** keep your register of interests up-to-date

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that

particular matter.

Members of the Planning Committee

- **Do** then act accordingly:

Where you have a Disclosable Pecuniary Interest (as defined within Appendix A of the Member's Code of Conduct):

- Disclose the Disclosable Pecuniary Interest to the Committee, unless the Monitoring Officer considers it to be sensitive in nature
- Leave the meeting
- **Do not** vote on the matter, participate (or further participate) in the discussion of the matter unless a dispensation has been granted

Where you have an Other Interest:

- Disclose the Other Interest to the Committee
- Leave the meeting and **do not** vote on the matter, participate (or further participate) in the discussion of the matter, if the matter affects:
 - your well-being or financial position;
 - the interest you hold that constitutes an Other Interest;
 - the well-being or financial position of a member of your family or a person with whom you have a close association;
 - a person with whom you, a close member of your family or a close associate have a contractual relationship; or
 - the determination of an application submitted by you, a close member of your family or a close associate; and
 - a reasonable member of the public knowing the facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest

unless a dispensation has been granted.

- But, **do** attend the meeting for the purpose of making representations only and after making your submission, immediately leave the meeting.

You may apply to the Borough Solicitor for a dispensation. If granted, this will allow you to participate in a discussion and vote on a matter notwithstanding a Disclosable Pecuniary Interest or Other Interest as set out above

For full details, please refer to the Members' Code of Conduct adopted 25 June 2012 and taking effect on 1 July 2012

- **Do not** get involved in the processing of the application.
- **Do not** 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 an interest under the Member's Code of Conduct 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** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have an interest under the Member's Code of Conduct to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have
 - an interest under the Member's Code of Conduct in a proposal to be put before a meeting, you may address the Committee but only to make a presentation in the same manner that would apply to ordinary member of the public, after which you must leave the chamber while the meeting considers it, you may not observe the meeting's consideration of it from the public gallery.)
- **Do** notify the Monitoring Officer in writing where you are making an application for planning permission and note that:
 - notification to the Monitoring Officer should be made no later than submission of the application;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
 - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee (where permitted).

ALL members

- If you speak on behalf of a lobby or ward members at Committee, you should withdraw once any public speaking has been completed to counter any suggestion that other Members of the Committee have been influenced by your continuing presence.

3. Relationship with Officers

Applicable to **ALL** members

- **Do not** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Planning or the relevant case officer, which may be incorporated into any committee report).
- **Do** recognise that officers are employed by the Council, not by individual Councillors. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each others positions. This relationship, and the trust which underpins it, should never be abused or compromised.
- **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.

4. Engagement - Contact with Applicants, Developers, Supporters and Objectors

Applicable to **ALL** members

- **Do** refer those who approach you for planning, procedural or technical advice to officers. Planning is a constantly changing arena in the technical context any queries on such matters must be referred to your professional officers.
- **Do not** give separate advice on the development plan or material considerations and do not become involved in negotiations; this should

be done by officers to ensure that the authority's approach is coordinated.

- **Do not** agree to any formal engagement with applicants, developers or groups of objectors where you can avoid it. To maintain impartiality, and its appearance it is preferable that members do not take part in meetings to discuss applications outside the public decision making process. However, exceptionally where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself, but should request the Head of Planning to organise it. Participation in such meetings should be authorised on a case by case basis by the Chairman and Vice-Chairman of the Planning Committee and the Head of Planning. The Chairman of the Planning Committee is usually the most appropriate member representative, accompanied by local ward members. 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 make a note of all phone conversations and emails, these should be placed on the planning file as a public record.~~
- **Do otherwise:**
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Head of Planning 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.
 - *raise any issues upon which you think clarification is needed with the Head of Planning and / or the case officer for the application.*
 - *forward any information received which the case officer may not already have so that all information is duly considered.*

Applicable to members of the Planning Committee

In addition in respect of presentations by applicants/developers

- **Do not** attend a planning presentation unless an officer is present and/or it has been organised by officers and/or it is open to the public.

- **Do** ensure that any presentation attended is in accordance with the guidance appended at Appendix 4
- **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 you must not express any strong view on a proposal which indicates a closed mind or state how you or other Members might vote.
- Members and officers should ensure that any contact they have with the press should accord with the principles of this Code and should not affect the integrity of the planning system. In particular, Members should ensure that they do not create the impression that they have predetermined the application and officers should restrict their comments to factual matters and should ensure that they do not prejudice the Council's position with regard to an application.

5. Fettering Discretion in the Planning Process

Applicable to members of the Planning Committee

- **Do not** fetter (that is limit) your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

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

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the

proposal. (This is more than a matter of membership of both the 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** also be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having an interest automatically barring participation in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:
 - you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:
 - another local or public authority of which you are a member; or
 - a body to which you have been appointed or nominated by the Council as its representative
 - where you are a trustee or a company director of the body submitting the proposal and were appointed by the Council

you should always disclose a this as an interest barring participation and withdraw.

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (for instance where you are also a member of the parish council, for example, or both a borough and county councillor), provided:
 - the proposal does not substantially effect the well being 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 parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and

- you disclose the interest regarding your membership or role when the Planning Committee comes to consider the proposal.
- **Do not** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances. If you do remain Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged the matter elsewhere, so that this may be formally recorded in the minutes.

Where you have fettered your discretion as above but you do not also have an interest under the Code of Conduct barring participation

- You may exercise your separate speaking rights as a Ward/Local Member (where this has granted by the authority's standing orders or by the consent of the Chairman). Where you do so:
 - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the member seating area for the duration of that item; and
 - ensure that your actions are recorded.

6. Lobbying of Councillors

Applicable to members of the Planning Committee

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express either;
 - an intention to vote one way or another or,
 - such 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.
- **Do** note that, unless you have an interest under the Member's Code of Conduct , you will not have fettered your discretion or breached this Planning Code of Good Practice through:
 - listening or receiving viewpoints from residents or other interested parties;

- making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.
- **Do** make clear that if you do express an opinion to objectors or supporters, that you will only be able to take a final decision after having heard all of the relevant arguments and taken into account all relevant material and planning considerations at Committee.

Applicable to ALL members

- **Do not** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to make a declaration to the Monitoring Officer where you estimate the market value or cost of the gift or hospitality is £25 or greater, in accordance with the provisions of the Code on Gifts and Hospitality at Part 5F of the Constitution.
- **Do** pass on any lobbying correspondence you receive to the Head of Planning at the earliest opportunity.
- **Do** promptly refer to the Head of Planning 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.

7. Lobbying by Councillors

Applicable to members of the Planning Committee

- **Do not** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals.

If you do, you will have fettered your discretion and will be prevented from participating in the debate and vote. You will be required to withdraw from planning committee and sit in the public gallery should it consider that matter.

- **Do** join general groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose the interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Planning Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- **Do not** 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.
- **Do not** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.
- **Do not** make planning decisions on a Party political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning decision is likely to be regarded as maladministration.

8. Site Visits

Applicable to members of the Planning Committee

As part of the Councils process of fulfilling its duties of Planning Committee all Planning Committee members and substitutes are encouraged to take part in a monthly 'planning view'. This is a structured site visit organised by officers, it is an invaluable tool in the decision making process. . Planning view provides members with an opportunity to view and enter application sites (and neighbouring sites where necessary) and also consider the surrounding context in advance of the Planning Committee meeting. It is a structured site visit accompanied by officers and members should try to attend;

Planning view is an opportunity to seek information and observe the site. When on site, members can ask questions or seek clarification on matters relevant to the site but it is not an opportunity to express opinions or views on the development proposed. In particular planning view offers the opportunity to:

- consider the impact of the proposed development if difficult to visualise from the plans and any supporting material, including photographs taken by officers
- more appropriately consider the comments of the applicant and objectors when these cannot be expressed adequately in writing

It is important to ensure that planning view does not become an impromptu lobbying opportunity for the applicant or objectors. If members are approached on site by the applicant or third parties, you should advise that they may make representations in writing to the authority and then direct them to officers present. Members should not discuss applications with the applicant or third parties and should be aware of the provisions of the 'Lobbying of Councillors' section found elsewhere within this code of conduct.

Members should not enter a site which is subject to an application other than on planning view as this may give the impression of bias. If you do consider it essential to enter the site, or a neighbouring site, other than through planning view, please advise the Head of Planning of your intention to do so and the reasons why. If you do intend to conduct such a visit, again it is important to be aware of the provisions of the 'Lobbying of Councillors' section found elsewhere within this code of conduct.

Any such visit made outside of planning view will be recorded and should be declared by the member at the relevant Planning Committee

A Site Visits Practice Note is appended at Appendix 3 and shall be complied with at all planning view site visits.

9. Public Speaking at Meetings

Applicable to ALL members

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

Applicable to members of the Planning Committee

- **Do not** 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, as this may give the appearance of bias.
- Members should not cross-examine or ask leading questions of the public or officers as a way of introducing new facts to the debate, only planning-related questions should be posed and late evidence should not be introduced by speakers at Committee.

- Messages should never be passed to individual Members from other Member or the public. This will create a perception of bias that will be difficult to overcome.

10. Decision Making and the Voting Process

Applicable to ALL members

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

Applicable to members of the Planning Committee

- **Do** come to the meetings having considered all the relevant information provided in the Planning Committee pack. Officers are available prior to the meeting to answer any questions in advance of Planning Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** make decisions in accordance with the Development plan unless material considerations indicate otherwise.
- According to the National Planning Policy Framework proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.
- The purpose of the planning system is to contribute to the achievement of sustainable development, in assessing and determining development proposals, the presumption in favour of sustainable development should be applied. There are three dimensions to sustainable development: economic, social and environmental. Plans and decisions need to take local circumstances into account so that they respond to different opportunities for achieving sustainable development in different areas.
- **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. Although there will be occasions when it will be legitimate to abstain from a vote, all members of the Planning Committee should take part in the making of decisions of the Planning Committee.

- **Do not** 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. This may be an occasion where it would be legitimate to abstain from the vote on a matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- Before making a decision which differs from the officer recommendation or the development plan, the Committee may wish to take the following steps:
 - Discuss the areas of difference and the reasons for that difference with officers beforehand
 - Record the detailed reasons as part of the mover's motion
 - Where there is concern about the validity of those reasons, consider deferring to another meeting to have the putative reasons tested and discussed. **Do** consider deferring an item to a later meeting where there is concern about the validity of reasons for making a decision contrary to officer recommendation in order that reasons can be tested and discussed.
- Before Members vote on a motion to determine an application contrary to officer recommendation, an officer should be given an opportunity to explain the implications of the contrary decision including an assessment of a likely appeal outcome and the chances of a successful award of costs against the authority should one be made.
- If the Committee makes a decision contrary to officer recommendation or the development plan (whether for approval or refusal or changes to conditions or planning obligations) a detailed minute of the Committee's reasons should be made. Members should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'sort out the planning reasons'.

11. Training

A forward plan of a minimum of 3 training events for members will be organised annually. Planning Committee Members and substitutes will be

required to attend a minimum of 2 training sessions each financial year. Members who fail to attend the minimum training will be excluded from meetings of Planning Committee until appropriate training has been completed. This training will include a balance of the following:

- Organised visits to review permissions granted, providing an opportunity for both Members and Officers to reflect on the details of the completed schemes and consider lessons learned;
- Topics of interest and or to consider issues in depth or where overturns have indicated problems with planning policy;
- Formal training external speakers;

New Planning Committee and substitute members must have attended initial induction training and observed at least one Planning Committee meeting before they sit on the Planning Committee

Applicable to members of the Planning Committee

- **Do not** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory initial induction planning training prescribed by the Council.
- **Do not** participate in decision making at meetings dealing with planning matters if you have not attended the minimum additional yearly training
- **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.
- **Do** request any training that you consider you need.

Appendix 1 –Summary of the Planning Process

1. When Planning Permission is Required

The carrying out of development (which includes operations and material changes in use) usually requires an express planning permission from the local planning authority.

2. Pre-application consultation or advice

While pre-application consultation and seeking pre-application advice on the part of applicants is not a legal requirement in the majority of cases (pre-application consultation is required in respect of the construction of certain wind turbine developments), it is generally encouraged.

The pre-application advice process will depend upon the nature of the proposed application:

- Enlargement, improvement or other alteration to a dwelling house or to a dwelling which is a listed building – there will be a site visit and written response within 10 days.
- For all other applications – if necessary there will be a site visit and a meeting(s) will be arranged to discuss the application. An initial written response will follow within 15 working days.

Any advice given is informal and will not commit the Council to a particular decision on any subsequent planning application.

3. Submission of Application

There are various types of applications that the local planning authority may deal with (including: full applications, outline applications, reserved matter approvals, discharge of condition applications, householder and minor commercial applications, listed building consents, non-material amendment applications, retrospective applications, applications to develop otherwise than in accordance with conditions previously attached and renewal applications).

Each have different requirements as to the documents that must be submitted with them, the notices that will be required to be given by the applicant, the publicity the local authority has to give to the application, the consultations to be undertaken and the timescales within which determinations are to be made.

4. When will an application go to Planning Committee?

The responsibility for the determination of most planning applications has been delegated to officers, but will come to the Planning Committee where it falls outside the scheme of delegation, a member has requested (having given reasons for the request) that the application be determined by the Committee

or the Head of Planning considers that the application should be considered by the Planning Committee.

Further in certain circumstances the Secretary of State may call-in a planning application for determination by himself instead of the local authority.

The officer will prepare a detailed report for each application to be considered by the Planning Committee including an assessment of the proposal, comments from consultees and written submissions from the public. The report will give the officer's recommendation to members. Where members propose to determine an application contrary to the officer's recommendation, they must provide valid planning reasons for doing so.

The Planning Committee is open to the press and public, save for certain exempt items which will be considered in closed session. There is a public speaking scheme applicable to the Planning Committee.

5. Decision

Where permission is granted, the notice will include details of any conditions and full reasons why each condition has been imposed. Where permission is refused, the notice will give full reasons and cite all policies and provisions of the development plan relevant to the refusal. In both instances, the applicant will also receive details of how to appeal to the Secretary of State against the authority's decision or conditions imposed.

6. Appeal

The applicant may appeal the following decisions of the local planning authority:

- Refusal of permission
- Grant of permission subject to conditions
- Failure to notify the applicant of its decision within the appropriate time limit

Any appeal will consider the merits of the application and costs may be awarded against parties that have caused unnecessary costs to be incurred due to unreasonable behaviour. Unreasonable behaviour may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).

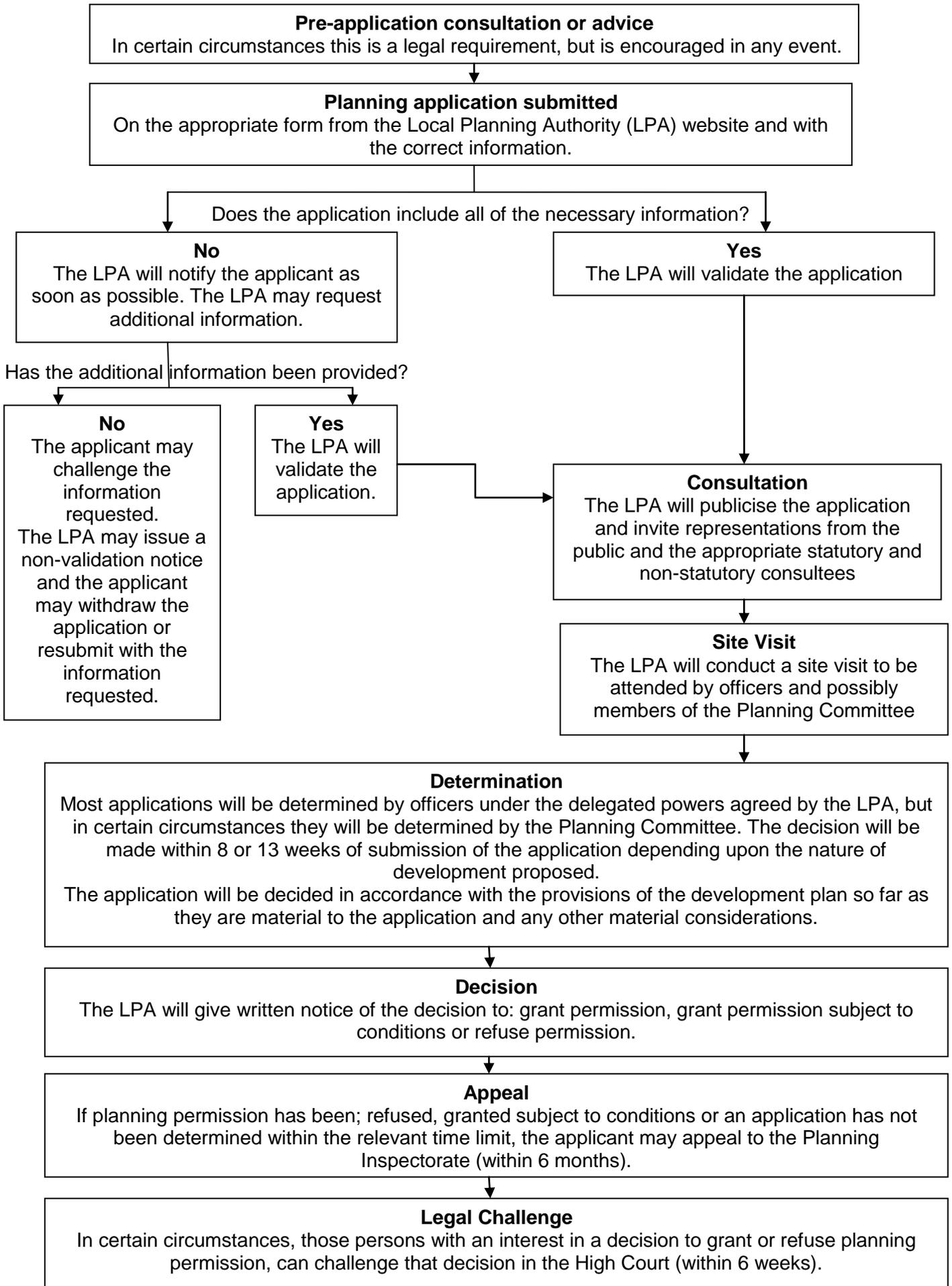
Examples of unreasonable behaviour which may result in an award of costs include:

- Providing information that is shown to be manifestly inaccurate or untrue
- Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations
- Failure to produce evidence to substantiate each reason for refusal
- Not determining similar cases in a consistent manner
- Refusing planning permission on a planning ground capable of being dealt with by conditions

7. Other Legal Challenges

A decision of the local authority or the Secretary of State may be challenged in the High Court on the basis of whether it was properly and legal made. Such challenges may include questions of procedure and whether or not irrelevant considerations were taken into account or relevant consideration were not taken into account).

Appendix 2 – Planning Process Flowchart



Appendix 3 - Site Visits Practice Note

1. Who may be present and take part in the proceedings:

- all Planning Committee members and Planning Committee substitutes
- relevant officers (including highways authority officers)

General onlookers, supporters and objectors will not be allowed to participate. An applicant, agent or landowner may be present, but is not to address any Planning Committee members directly.

2. Conduct of Site Visits

- Site Visits will be conducted in a formal manner
- Officers will highlight the site factors and site issues relevant to the site visit
- Members may ask questions and seek clarification of Officers as to the physical characteristics and surroundings of the site
- If necessary, Officers may speak to the applicant, agent or landowner to seek information on such points
- There will be no debate about the merits of the application
- No hospitality will be accepted

3. General

- The Officer shall record who attends each site visit, where was visited and at what time
- If it is decided not to visit a particular site, this shall be on the basis of a consensus decision and the reason for not visiting the site shall be recorded.
- It is not appropriate for a member to take part in a specific site visit if the application is one where they will be prevented from participating in the debate and voting on the application when it is considered at the Planning Committee (whether due to an interest under the Member's Code of Conduct or due to a fettering of their discretion). The member should make contact with the relevant case officer as soon as the member is aware that this will be the case, so that appropriate arrangements can then be made.

Appendix 4 – Pre-application Developer Presentations to Members and Stakeholders

Pre-application developer presentations may be made to members and stakeholders in accordance with this guidance. Such presentations will normally be major development proposals but, may exceptionally (at the Officers and the Planning Committee Chairman's discretion) relate to other development proposals.

Stage in Process

A developer presentation is an opportunity for the developer to explain his proposals and to be asked questions by Members and stakeholders. It is important that presentations take place at an early pre-application stage in the development process so that developers may address certain aspects of their proposals as a result of questions asked during the presentation.

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

Arrangements for the pre application presentation

The presentation arrangements will be confirmed by the Planning Officers. Presentations will normally take place in the Council Chamber. The developer should be made aware that it can take a while to find a time for the presentation.

The invitees should include:

- All Members of Cheltenham Borough Council (invites will be forwarded by Planning Officers by way of letter, e-mail or member updates/briefings)
- The Planning Case Officer and any other Cheltenham Borough Council Officers who will have a significant role in the case.
- A representative of the Highway Authority
- The Chairman of the relevant Parish / Town Council and a deputy (or their substitutes).
- As the Head of Planning considers appropriate, a representative of any other authority/person that would be a consultee with a duty to respond under the Town and Country (Development Procedure) (England) Order 2010 (as amended or replaced from time to time) in respect of any planning application relating to the proposal. For example, this may include a representative of the Environment Agency or English Heritage.

Form of the pre-application presentation

The meeting is introduced by the Head of Planning (or the relevant delegated officer).

The presentation will normally comprise:

- (a) Officer's introduction, including the standard information below and advising that the order of the meeting will be as (b) to (d) as follows,
- (b) Planning Officer to provide a planning policy context for the development
- (c) The developer to outline their proposals (roughly 10 to 15 minutes)
- (d) Questions and answers (roughly 30 minutes)

Standard information

When introducing a Developer Presentation to Members and stakeholders, to ensure that no issues of pre-determination can arise, the following information should be presented by the Head of Planning (or the relevant delegated officer):

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

The following stakeholders have been invited [names]

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

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

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

Other issues

Formal minutes will not be taken of the meeting, but it will be noted on the pre-application file that a developer presentation has taken place.

Developers should not by themselves arrange a Developer Presentation for Members and stakeholders. This can only be done by officers. If developers do want themselves to arrange a meeting (whether pre-application or post-application) where they can present their ideas to members and stakeholders, this should, take the form of a public meeting. The key differences are:

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

A behind closed doors meeting between a Developer and Members of the Planning Committee, outside of any meeting arranged in accordance with this guidance, would not be acceptable.

Post Application Presentation

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

- (a) The invitees will be the same as with developer presentation except that the applicant and his advisers will not be allowed to be present.
- (b) The meeting will operate in the same way as the developer presentation, except that the Case Officer will outline the proposal
- (c) Formal minutes will not be taken of the meeting. The Case Officer can provide some feedback to the applicant following the meeting. For instance, this could be the case if questions have been asked on technical subjects and the answers are not apparent from the scheme submission.

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Cheltenham Borough Council Standards Committee – 7th July 2015 Social Media Protocol

Accountable member	Cabinet Member, Corporate Services, Councillor Jon Walklett
Accountable officer	Borough Solicitor, Sara Freckleton
Key Decision	No
Executive summary	The draft Social Media Protocol attached at Appendix 1 which has been considered by the Constitution Working Group is intended to provide guidance to Members on good practice when interacting with social media. The draft Protocol provides legislative and Code of Conduct context for the use by Members of social media. The Standards Committee is being asked to consider the draft Protocol and to make any amendments considered necessary in order to recommend it to the Council for approval.
Recommendations	<ol style="list-style-type: none"> 1. To seek the views of the Committee on the draft Social Media Protocol for Members attached at Appendix 1. 2. To recommend to the Council the adoption of the Social Media Protocol.

Financial implications	<p>None other than those supported through the existing base budget.</p> <p>Contact officer: paul.jones@cheltenham.gov.uk, 01242 775154</p>
Legal implications	<p>As set out in the report.</p> <p>Contact officer: sara.freckleton@teWKesbury.gov.uk, 01684 272011</p>
HR implications (including learning and organisational development)	<p>No direct HR implication arising from this report however it is recommended that Democratic Services put a plan in place to ensure all Members are briefed on the detail of the protocol.</p> <p>Contact officer: julie.mcarthy@cheltenham.gov.uk, 01242 264355</p>

1. Background

1.1 The Constitution Working Group identified a need for guidance to be provided to Members on the use of social media and has produced a draft Social Media Protocol for Members which is attached at Appendix 1, for consideration by the Standards Committee and recommendation to the Council for adoption.

2. Social Media

2.1 Social media is the collective term used to describe online media, which offer easy ways to publish content online and also to facilitate and participate in online conversations, which may invite the posting of comments or contributions or otherwise invite discussion. Social media can involve social networks e.g. facebook; professional networks e.g. LinkedIn; content communities sites e.g. Flickr and Youtube; blogs e.g. via sites such as Wordpress and Blogger and micro-blogging sites e.g. Twitter.

2.2 The opportunities that social media can deliver in terms of reputation enhancement, engaging with residents / communities and other interested parties using their platform of choice and by encouraging two-way dialogue, are recognised. If managed appropriately, the use of social media as a communications tool for the Council and for individual Members is of benefit both to the Council and those whom it represents. It is apparent that the use of social media also presents the Council and Members with certain risks and challenges and can, for Members, potentially result in breaches of the Code of Members' Conduct

3. Draft Social Media Protocol for Members

3.1 The Protocol is intended to be complementary to the Code of Members' Conduct and to provide helpful and comprehensive guidance to Members in the use of social media. It follows the same "Do's" and "Don'ts" format of the Code of Conduct and of other related Codes and Protocols.

3.2 The document clearly sets out how Members are expected to interact with social media and it should be noted that the Protocol seeks to restrict the use of social media by Members when participating in regulatory matters e.g. Planning and Licensing Committees (see section 6, "Don't" bullet point 7).

3.3 It is intended that, once adopted by the Council the Protocol would be included in Part 5 of the Constitution and would be taken into account by the decision-maker (Monitoring Officer / Standards Sub-Committee) in determining any related Councillor conduct complaints.

4. Reasons for Recommendations

4.1 To provide Members with guidelines for the use of social media

5. Consultation and feedback

5.1 The Council's Communications team has been consulted on the draft Protocol. The document has also been e-mailed to all Councillors for comment by the 6 July and any responses received will be brought to the attention of the Committee at the meeting.

Report author	Contact officer: sara.freckleton@teWKesbury.gov.uk 01684 272011
Appendices	1. Draft Social Media Protocol for Members – Appendix 1
Background information	Cheltenham Borough Council Code of Members' Conduct



Draft version 2, 23.06.15

CHELTENHAM BOROUGH COUNCIL

DRAFT

SOCIAL MEDIA PROTOCOL FOR

MEMBERS

Contents and Definitions

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3. Benefits of using social media
4. Use of social media in meetings
5. General Legal and Code of Conduct Context
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7. Glossary of terms

I. Introduction

Social media has become an increasingly popular and important means of communication for individuals and organisations and is used both socially and for business.

Most social media sites are web-based and provide a variety of ways for users to interact and share information including blogs, photo sharing, video sharing social networks and mobile phone applications.

Unlike telephone conversations, messages on social media are in written form, can be viewed by a much wider range of people than just the intended recipient, and should therefore be treated as a permanent written record. Once the message is placed on social media, its audience cannot be restricted. Deletion is only effective from the time of deletion by which time the material could already have been viewed and shared.

Consequently, caution must be exercised when using social media and Councillors should think carefully before posting anything on social media when angry, tired or having consumed alcohol and Members should only post material which they would be happy to have formally recorded. Inappropriate use of social media by Members may result in a complaint of breach of the Council's Code of Members' Conduct.

Despite the caution referred to above, there are many benefits to engaging with social media which is currently at the forefront of modern communications and its capabilities are used by the Government and public bodies across the country as another means of engaging in two-way conversations with customers, stakeholders and partners.

Social media can be used to support Councillors in performing their community leadership role, to keep in touch with local views and opinions and to campaign on local issues.

2. What is social media?

Social media is the blanket term applied to a range of online multimedia tools that are used for creating content and two- way communications. These allow people to interact with each other by creating their own content. Users share information on social media sites to discuss opinions and may create interest groups or pages. These sites and tools are used to build online communities and networks which encourage participation and engagement.

Section 7 of this Protocol sets out a glossary of social media terms currently in use.

3. Benefits of using social media

Social media is used as a preferred method of communication by increasing numbers of people. The use of social media by Councillors enables them to respond to the expectations of modern society and benefits for use include the following:-

- An efficient way to talk and listen to residents, local businesses and other partner organisations
- A useful way of finding out about local concerns and interests
- Useful for finding out about breaking news, latest research or publication, policy or announcements
- A good way of making the electorate aware of local work undertaken by Councillors
- An effective way of communicating with a range and volume of people who would not use more traditional ways of contact such as meetings, telephone calls etc.
- It is mobile and enables instant communication and immediate feedback
- It enables pictures and videos to be uploaded.
- It is free, by using existing devices.

4. Use of social media in meetings

There is no restriction on the recording of formal Council, Committee meetings etc and consequently there is an increasing tendency for these proceedings to be published via social media. There are no specific legal reasons to prevent Councillors accessing social media when attending formal meetings, but there should be adequate safeguards to ensure that this does not compromise the integrity of the Council itself or individual members. In addition to having regard to sections 5 and 6 of this Protocol, the following should be considered and observed:-

- Tweeting or other social media interaction during a public meeting may be useful to update on progress and receive comments from the community but may give the impression (if used excessively) that a Councillor is not concentrating on the business being conducted or is relying on guidance from outside the meeting.
- Confidential information and the content / discussion at meetings which are taking place as exempt items of business, from which the public is excluded, should not be communicated or disclosed in any way.

5. General Legal and Code of Conduct Context

Although there is no additional legal burden arising from the use of social media, it must be borne in mind that anything posted on a social media site becomes a publication which is widely broadcast in the public domain. Members should therefore be mindful of the relevant legal provisions and the requirements of the Council's Code of Members' Conduct

Summary of relevant legal provisions

Libel/Defamation - if an untrue statement is published about a person which is damaging to their reputation, they may take action against the person making or publishing that statement. This is also true if someone posts defamatory material on another person's site, and swift action to remove it is not taken. A successful libel claim could result in the award of damages.

Copyright - using images or text from a copyrighted source, e.g. extracts from publications or other people's photos, without getting permission is likely to breach copyright laws. Members should avoid publishing anything which they are not sure about without checking or, alternatively, obtaining permission to use the material. A successful claim for breach of copyright could result in the award of damages.

Data Protection - it is contrary to data protection legislation to publish personal data about individuals unless they have given you their permission. Councillors are data controllers and are therefore personally responsible for any personal data published.

Incitement - it is a criminal offence to incite any criminal act. It is a criminal offence to make a discriminatory remark about anyone based on a protected characteristic as defined in equality legislation.

Harassment - it is a criminal offence to repeatedly pursue a campaign against someone where this is likely to cause alarm, nuisance or distress.

Equalities – it is contrary to equality legislation to publish material that might be considered sexist, racist, ageist, homophobic or anti-faith.

Legal Proceedings – commenting on legal proceedings being taken by or against the Council may prejudice either the Councillor's own or the Council's position and advice should be taken prior to any comments of this nature being communicated via social media.

Elections and Voting – there are specific legal provisions providing for a criminal offences in relation to the publication of information relating to an election, including information regarding the result of an election that may affect the result of the election and information which undermines the secrecy of a ballot.

Members' Code of Conduct provisions

The provisions of the Cheltenham Borough Council Code of Members' Conduct apply when Councillors are acting or giving the impression that they are acting in their capacity as a Member of the Council.* Members should be particularly mindful of the following provisions of the Code of Conduct when using social media:-

IV. Rules of Conduct

6. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
7. Members shall observe the following rules:-

General Requirements

- (1) **Do** treat others with respect.
- (2) **Do not** bully any person.
- (3) **Do not** do anything which may cause your Authority to breach any of the equality enactments.
- (4) **Do not** use your position improperly, to confer on or secure for yourself or any other person, an advantage or disadvantage.
- (5) **Do not** do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, your Authority.
- (6) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;

- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is –
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Authority.
- (v) before making any disclosure under the provision and (iv) above, the written advice of the Borough Solicitor must be sought and considered.
- (7) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (8) **Do** promote and support high standards of conduct when serving in your public post by leadership and example.

* Members should be aware that the use of personal e-mail addresses or aliases will not avoid there being a breach of the Code of Conduct in circumstances where it can be demonstrated the Member is acting or giving the impression that they are acting in their capacity as a Councillor.

6. Some social media do's and don'ts

Councillors should observe the following good practice in their use of social media:-

Do

- Set appropriate privacy settings for blog or networking site – especially if the Councillor has a private, non-political blog.
- Update social media regularly – if it is not regularly updated it may be better to close it than to appear unresponsive or disinterested.
- Keep an eye out for defamatory or obscene posts from others on a Councillor's social media site or page and remove them as soon as possible.
- Be aware that the higher the profile of the councillor, the more likely it is for comments posted to be considered to have been made in an official capacity.

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- Be aware that by publishing information that could not have been accessed other than in the position as a councillor is likely to be considered to amount to acting in an official capacity.
- Use a disclaimer. When publishing content to any form of digital media, Councillors should make it clear where views are those of the Councillor personally and that these are not necessarily the views and opinions of Cheltenham Borough Council. However, remember that it can be difficult for the audience to distinguish an official role at Cheltenham Borough Council, particularly if the Member holds a particular position of responsibility such as Cabinet Member, Committee Chair etc.
- Treat others with respect – avoid personal attacks or offensive comments.
- Refrain from publishing anything received in confidence.
- Ensure that comments published do not bring the council or individual Councillor's role into disrepute.
- Comply with equality laws.

Don't

- Post comments in haste (particularly in any situation where judgment may be impaired such as when feeling angry, tired or having consumed alcohol)
- Post comments that the individual would not be prepared to make in writing or in a public meeting. (Word spreads faster online than through any other form of communication.)
- Publish an untrue statement about a person which is damaging to their reputation as they may commence proceedings for libel.
- Publish confidential information that has been learned or accessed as part of the role as an elected member. (This includes personal information about service users, their families or friends and others e.g. contractors, council staff as well as the Council's commercially sensitive information)
- Use Council facilities for personal or political blogs
- Post images or text from copyrighted sources without permission
- Interact via social media (or mobile devices) whilst participating in a debate on a regulatory matter (planning / licensing etc.)

- **Data Protection** – Don't publish personal data of individuals unless their written permission has been obtained.
- **Bias and Predetermination** – If involved in making planning, licensing or other regulatory decisions, a Councillor should not say anything through social media (or elsewhere) that suggests that the Councillor has completely made up their mind on a matter which is to be the subject of consideration and decision. Councillors' obligations when participating in such a decision is to approach the committee / hearing with an open mind, being prepared to take on board and weigh all evidence and arguments before making your decision at the meeting.

Any areas of uncertainty or if further advice is required, please contact the Council's Monitoring Officer or Communications team.

7. Glossary of terms

Blog term derived from 'weblog' meaning an internet log or diary/journal

Blogosphere all blogs collectively on the internet

Direct Message a message sent via Twitter directly to someone who follows you or who you follow. You can also direct message on Face Book.

Facebook an example of social networking

Flickr photo sharing site

Follower someone who has chosen to follow you on Twitter, Instagram or Pinterest.

Friend someone who you have allowed to access your Facebook page - not necessarily a friend in the normal social context

Forum a virtual discussion area

#Hashtag a hashtag or # is a way of denoting a keyword which can be used as a search term on Twitter, Facebook or Instagram

Instagram a platform for sharing photos and videos

Microblog short blog e.g. Twitter using a maximum of 140 characters

Pinterest a virtual pinboard for creating and sharing images

RebelMouse a free service that connects to your accounts at services such as Facebook, Twitter and/or Instagram. It integrates all your SM Tweets, postings and blogs automatically into one page, boosting your SM presence without you doing anything extra as it 'runs in the background'. It will save you having to tweet your blogs etc. to get more prominence on search engines

Retweet to forward a message or Tweet seen on Twitter

Social networking Facebook etc

Snapchat a photo messaging application for photos, videos, drawings and text. The message deletes once viewed

Spam electronic junk mail

Trending current popular people or conversations as in 'trending on Twitter now...'

Troll someone who disrupts online communities or discussions through unhelpful or irrelevant posts

Tweet a message sent on Twitter

Tweety Hall a virtual gathering place for councillors with Twitter accounts – search @tweetyhall

Twitter a social media site for sharing short messages limited to 140 characters called tweets

Vimeo A platform for sharing videos and photographs

WhatsApp is an instant messaging app for smartphones. The app uses the internet to send text messages, images, video and audio media message

You Tube a platform for sharing videos

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