

## **PART 5 CODES & PROTOCOLS**

### **Part 5.2 Code of Conduct for Councillors and Officers in Planning Matters**

#### **1. INTRODUCTION**

- 1.1 This Code of Practice is intended to guide the procedures by which Councillors ('Members') and officers of the Council deal with planning matters and to set standards of probity and conduct which the people of Carmarthenshire can expect of them.
- 1.2 As Planning affects people's lives and private interests, it can be very contentious. It is, therefore, important that the people of Carmarthenshire understand the system and have confidence in its integrity and transparency, and that Members and officers, involved in the 'planning' process, avoid impropriety or even the suspicion of impropriety. This approach is endorsed by the Committee on Standards in Public Life (the Nolan Committee), the Wales Audit Office and the Welsh Local Government Local Government Association.
- 1.3 Members must follow the *Code of Conduct for Members of Carmarthenshire County Council* (Part 3 of which covers such matters as declarations of interests, gifts and hospitality) and the *Protocol for Member, Officer Relations*. When dealing with planning matters they must also act in accordance with this Planning Code of Practice.
- 1.4 A breach of this code, while not usually amounting to a breach of criminal law, may adversely affect the standing of the Council and the reputation of an individual member. It could result in a decision being judicially reviewed or in a complaint of maladministration, or an allegation of a breach of the Code of Conduct being made to the Local Government Ombudsman.
- 1.5 If Members or officers are in doubt about the application of the 'Code of Conduct for Members of Carmarthenshire County Council' or of this Planning Code of Practice they should seek advice from the Council's Monitoring Officer.

#### **2. GENERAL ROLES, RESPONSIBILITIES AND CONDUCT**

- 2.1 Members and officers have different, but complementary roles in the planning process. Members of the Planning Committee have different roles to those of other Councillors.

2.2 Councillors who are members of the Planning Committee determine the more significant and contentious planning applications received by the Council. In doing so these members perform a quasi-judicial role and are required to consider all planning proposals against the wider public interest. Due to the quasi-judicial nature of the role of the Planning Committee and the requirement in Part 13 of this Code of Practice such members should undertake training before they undertake their role as members of the Planning Committee. Other applications are delegated to the Head of Planning Services to decide, as described in Paragraph 2.10.

### **Members of the Planning Committee**

2.3 Planning Committee Members shall:

- Exercise personal responsibility in deciding whether to declare any personal and prejudicial interest (as defined in Part 3 of the Code of Conduct for Members of Carmarthenshire County Council) in any planning application that is before the Planning Committee for determination and consider withdrawing from involvement in the decision. In the event that a Member has both a personal interest and a prejudicial interest under the code with regard to a particular planning application, that Member will usually still be able to attend the planning committee in relation to that particular application but only for the purpose of making representations, answering questions or giving evidence in relation that application. A Member must then leave the meeting until the application has been determined by the Committee. Upon such determination the Member will then be permitted to take part in the remaining items on the agenda. If in doubt, Members should consult and seek guidance from the Monitoring Officer.
- Act fairly and openly and avoid any actions, which would give rise to an impression of bias, avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.
- Approach each planning application/issue with an open mind, avoiding preconceived ideas.
- Not organise support or opposition to a planning application if they do not wish to affect their ability to vote at Planning Committee.
- Carefully weigh up all relevant planning issues before making a decision.
- Make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality, (and whilst Committee Members have a special responsibility to their Electoral Division constituents, including those who did not vote for them, their Planning duty is to the whole community).
- Not decide how to vote on applications on the basis of a political 'whip', but only on the planning merits of each case, (subjecting a planning decision to the discipline of the political 'whip' could amount to maladministration and result in Ombudsman intervention).
- Give reasons/justification for their decisions and resolutions.
- Have regard to any relevant advice from the Council's Monitoring and Chief Legal Officer or their representatives.

## **Members of the Planning Committee who are also members of Community / Town Councils**

- 2.4 Membership of a Community / Town Council provides an opportunity to listen to local views and does not of itself give rise to a conflict of interest for a Planning Committee Member provided he/she maintains an open mind until all the evidence and arguments have been presented at the Planning Committee.
- 2.5 Legally a Member may speak and vote when a planning application is under consideration at a meeting of the Community/Town Council. In these circumstances it is necessary for a Member to make it clear at the Community/Town Council meeting that he/she would consider the matter afresh at the Planning Committee, taking into account all relevant information. When the matter is then considered by the County Council a Member should make it clear that they are not bound by the views of the Community/Town Council. This does not apply when the application is from the Community/Town Council itself. In that circumstance the Member should consult the Monitoring Officer for further advice.

## **Members of the Council who are not Planning Committee Members**

- 2.6 Members who are not Members of the Planning Committee represent their Electoral Ward and the County Council as a whole. They may, attend the Planning Committee and speak on any planning matter arising within their electoral ward (subject to declarations of interest), but may not vote. Such Members do not act in the quasi-judicial role performed by Committee Members, but shall: -
- Act fairly and openly:
  - Avoid any actions, which would give rise to an impression of bias or undue influence.
  - Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.
- 2.7 Such Members may express support for a particular opinion in advance of the matter being considered by the Planning Committee (or by the Head of Place and Sustainability under delegated powers).
- 2.8 The function of officers is to support and facilitate the Councillors in their work and to implement lawful decisions.

## **Applications delegated to the Head of Place & Sustainability for determination**

- 2.9 The Head of Place & Sustainability has delegated powers to deal with the determination of all planning (and other planning related) functions and

procedures relating to Town and Country Planning as contained within the following Acts (as amended where applicable) and including all subordinate legislation:-

- The Town and Country Planning Act 1990
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- The Planning (Hazardous Substances) Act 1990
- Planning and Compensation Act 2004
- Planning (Wales) Act 2015
- \*The Historic Environment (Wales) Act 2016
- The Dyfed Act 1987

The exceptions being:-

- Applications where the Local Member submits a request to the Head of Place & Sustainability for it to be considered by the Planning Committee, and this is made in writing within 21 days of receipt of the consultation and outlining material planning reasons;
- Applications submitted by or on behalf of serving Councillors or their immediate family or employees of the Development Control Service or their immediate families;
- Applications submitted by, or on behalf of, the Council or involving land owned by the Council and where the Council will receive a significant receipt as a result of the development.
- Minor applications where there are three letters of objection to the proposal from different households or businesses, or petitions of three signatures from different households or businesses or more, and the grounds of objection are considered to be material planning considerations to the proposal and the officer recommendation is to approve the application, unless:
  - where material issue(s) had been debated by the committee at the outline stage and there were no changes in material circumstances between the outline and detailed (reserved matters) application;
  - where a material issue(s) had been debated by the Committee at the original planning application stage and there were no changes in material circumstances between the original and Section 73 (Removal/ variation) application;
  - where persistent objections were received in respect of an on-going development which had previously been considered by the Planning Committee and which raised no new material planning considerations.
- Major applications where there are seven letters of objection to the proposal from different households or businesses, or petitions of seven signatures from different households or businesses or more, and the grounds of objection are considered to be material planning

considerations to the proposal and the officer recommendation is to approve the application, unless:

- where a material issue(s) had been debated by the committee at the outline stage and there were no changes in material circumstances between the outline and detailed (reserved matters) application;
- where a material issue(s) had been debated by the Committee at the original planning application stage and there were no changes in material circumstances between the original and Section 73 (Removal /Variation) application;
- where persistent objections were received in respect of an on-going development which had previously been considered by the Planning Committee and which raised no new material planning considerations.
- Applications that the Head of Place and Sustainability considers should be dealt with by the Planning Committee.

The above listed exceptions do not apply to the following applications and/or consents:

Prior Notifications

Applications relating to a Local Development Order

Non-Material Amendments

Discharge of Conditions

Modified / Discharge of Planning Obligations

Advertisement Consent

Listed Building Consent

Conservation Area Consent

Hedgerow Removal Notices

Works to Trees in a Conservation Area

Works to Tree Preservation Orders

CLEUD (Certificate of Lawful Existing Use or Development)

CLOPUD (Certificate of Proposed Lawful Use or Development)

Certificates of Alternative Appropriate Development

Overhead Line Notifications

All exceptions will be reported to Planning Committee as long as they strictly comply with the scheme of delegation.

For the purposes of this protocol “major developments” are those defined in article 2(1) of the Town and Country Planning (Development Management Procedure)(Wales) Order 2012 being:-

(a) minerals development

(b) waste development

(c) 10 or more dwelling houses or the site concerned is of 0.5 hectares or over

(d) a building with 1000 square metres or more of floor space

(e) development on land of 1 hectare or over

“Minor developments” for the purposes of this protocol are to be defined as meaning all other developments.

## 2.10 Duties of Officers

In considering applications and in advising Members and the public on planning policy, the determination of planning applications, enforcement and other planning matters, officers must: -

- ❑ Act fairly and openly
- ❑ Avoid any actions, which would give rise to an impression of bias.
- ❑ Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.
- ❑ Approach each planning application / issue with an open mind, avoiding preconceived ideas.
- ❑ Carefully weigh up all relevant planning issues.
- ❑ Make decisions purely on planning grounds having regard to the development plan and other material considerations.
- ❑ Give professional, objective and consistent planning advice.
- ❑ Provide a comprehensive and accurate analysis of the planning issues.
- ❑ Give a clear recommendation.
- ❑ Carry out the decisions of the Committee.

The Council's Legal Officers advise Members on legal and procedural matters. In doing so, they must: -

- ❑ Act fairly and openly
- ❑ Avoid any actions, which would give rise to an impression of bias,
- ❑ Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties,
- ❑ Give professional, objective and consistent advice,
- ❑ Carry out the decisions of the Committee so far as they relate to the completion of any legal agreement, or instigation/defence of proceedings etc.

### **3. ADMINISTRATIVE PROCESSING ARRANGEMENTS**

#### **Planning application notification**

#### **Application documentation**

#### **Meetings with applicants and objectors**

#### **Determination process**

- 3.1 All Members of Council will be informed of the submission of all planning and related applications through the “Weekly List of Planning Applications “ placed on the web site, unless the member has requested notification directly via e-mail and or post.
- 3.2 The weekly applications list and notification shall indicate the appropriate case officer who can advise whether the application decision is to be made by the Planning Committee or by officers under the scheme of delegation
- 3.3 Local Members will only be sent a copy of any planning or related application or any documents relating thereto where they make a specific request. Local Members will not be informed of the submission of amended plans in respect of an application in their electoral division unless they make such a request.
- 3.4 Local Members will not be informed of, or invited by the Planning Department, to any meetings with applicants or objectors in respect of any application in their electoral division, although they may be invited by the applicant / objector. Should Members of the Planning Committee attend any such meetings they should be aware of the need to avoid any indication of prior determination.
- 3.5 Local Members will be informed of public meetings being held in respect of any application relating to land or property in their electoral division, which are either being organised by the Council or with which the Planning Department is involved.
- 3.6 Should a Member wish an application to be determined by the Planning Committee, he/she should make a request in writing to the Head of Planning within 21 days of the issue of the notification. The request should state the reasons why determination by the Planning Committee is necessary.
- 3.7 Members shall ensure that they do not act in any way which could be regarded as putting pressure on officers to make particular recommendations or decisions nor to change recommendations or decisions in respect of any application.

#### **4. PRE-APPLICATION / DECISION AND ENFORCEMENT DISCUSSIONS**

- 4.1 Local Planning Authorities are encouraged to enter into discussions and negotiations, which can bring about improvements that can make an application acceptable or otherwise remedy problems, and thereby potentially speed up the process.
- 4.2 Such discussions will normally take place at officer level and Members shall, wherever possible, refer requests for such advice to the officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional and they may wish to make a record of the discussion.
- 4.3 All officers taking part in such discussions shall:
  - ❑ Identify the decision making process applicable to the application/issue under discussion
  - ❑ Make it clear that only personal and provisional views can be expressed which will not bind the Council to reach a particular decision when determining an application.
  - ❑ Express views in the context of the development plan and other material planning considerations.
  - ❑ Be consistent in interpreting planning policies and Government guidance.
  - ❑ Advise applicants and neighbours/objectors on procedural matters.
- 4.4 Occasionally local people or Community / Town Councils or the applicant or his agents will arrange public meetings to discuss a current application and may invite the applicants, Members and officers to attend. Given the need to avoid pre-determination, Members of the Planning Committee and officers who attend such meetings shall only use them for fact-finding; shall not express an opinion for or against the proposal and shall otherwise act in accordance with Paragraphs 2.2 to 2.6 and 4.2.

#### **5. LOBBYING OF MEMBERS OF THE PLANNING COMMITTEE**

- 5.1 Lobbying is the process by which applicants; agents, neighbours, non-Committee Members and other interested parties may seek to persuade Councillors on the Planning Committee to come to a particular decision. It is legitimate for them to approach Members of the Planning Committee and such discussions may help Members to understand the issues and concerns. As stated in the “Nolan Committee Third Report”, it is essential for the proper operation of the Planning system that local concerns are adequately ventilated”
- 5.2 In responding to approaches of this kind, Planning Committee Members should not publicly express an opinion that may be taken to indicate that they have made up their minds prior to hearing all the evidence and arguments,

which will be presented at the Planning Committee. They should explain their position in respect of probity if they express an opinion on a proposal before consideration at the Committee. They should;

- ❑ Explain the procedures by which representations can be made.
- ❑ Indicate that a decision will be taken only when all relevant planning considerations have been taken into account.
- ❑ Explain the kinds of planning issues that the Council can take into account.
- ❑ report issues raised to the officers or
- ❑ Direct the public to the Officers so that their views can be considered.

5.3 Although it is not unlawful for a Member of the Planning Committee to publicly support a particular outcome, or express a view on an application prior to the meeting of the Planning Committee, such involvement could give rise to a perception that the Member had already formed a view as to how he / she would vote in advance of reading the full and final report to the Planning Committee, and hearing the debate and it could give rise to allegations that the Member has predetermined the application. That could undermine the integrity of the decision made by the Planning Committee and the decision could then be challenged on appeal, in the courts or by a claim of maladministration made to the Ombudsman.

5.4 Members of the Planning Committee should therefore give careful consideration as to whether they should in any way give an indication that they have predetermined a planning application prior to consideration of a full report and debate at Planning Committee, and if they have done so they should not participate in the determination of that application by the Planning Committee. Members should seek the advice of the Council's Monitoring officer in such cases.

## **6. PLANNING APPLICATIONS SUBMITTED BY MEMBERS, COMMUNITY / TOWN COUNCILS AND OFFICERS**

6.1 Planning Applications submitted by, or on behalf of, Members or officers employed by the Development Control Service of the Council, or by, or on behalf of a spouse, partner, parent, child or sibling or a Member or such officer of the Council, where known, shall be decided by the Planning Committee and not, under delegated powers by the Head of Planning Services. This will also apply where the Member is acting as an agent for another party.

6.2 The affected Member(s) must declare the existence and nature of the interest/relationship and withdraw from involvement in the decision.

6.3 The affected officer shall take no part in the processing of the application and any recommendation made to The Head of Place & Sustainability under the scheme of delegation or to the Planning Committee.

- 6.4 Where a Community or Town Council submits a planning application, the County Council Members who are also Members of that Community or Town Council should declare their interest and withdraw from the meeting. However, they may be permitted to attend the meeting for the purposes of making representations and answering questions relating to the application concerned as long as members of the public are allowed to make representations, give evidence or answer questions about the matter. The Member must then leave the meeting until the application has been determined by the Committee whereupon the Member can rejoin the meeting to take part in the remaining agenda items.

## **7. PLANNING APPLICATIONS SUBMITTED BY THE COUNCIL**

- 7.1 It is essential that the Council treat applications for its own development (or a development involving the Council and another party) in a similar manner to all other applications and that this is seen to be the case.
- 7.2 All such proposals will be subject to the same administration processes, including consultation, as private applications. Determination shall similarly take into account planning policy and any other material planning considerations.
- 7.3 In order to ensure transparency and openness in dealing with such applications, Council applications (save for discharge of conditions) that involve land owned by the Council and where the Council has a significant financial interest will not be dealt with under delegated powers, but will be determined by the Planning Committee.

## **8. OFFICER'S REPORTS TO THE PLANNING COMMITTEE**

- 8.1 All Planning matters considered by the Planning Committee will be the subject of appropriate written reports by the Head of Place & Sustainability (or, in the case of legal matters, the Head of Legal Services) incorporating his / her recommendations. Such reports shall be comprehensive, but succinct in setting out the key planning (or legal) issues to be considered (in terms of the provisions of the development plan and other material planning considerations), the substance of any representations received and any relevant planning history.
- 8.2 Members and officers shall not put pressure on planning officers to make particular recommendations or decisions nor to change recommendations or decisions in respect of any application

## 9. CONDUCT AND PROCEDURE OF PLANNING COMMITTEE MEETINGS

- 9.1 The Chairperson of the Planning Committee is responsible for the conduct of the meeting in accord with Council Procedure Rules and the protocol (Appendix 1 and paragraph 9.3 below) and for the effective delivery of business in a professional, courteous and transparent manner. The Members of the Committee and officers shall respect that role and behave in a manner that is commensurate with the high standards of conduct and propriety that are expected in public office. At the outset of the meeting the Chairperson in conjunction with Democratic Services officers will ensure that all Members of the Committee are all seated in a designated area of the Chamber in order that they are sitting separately from members of the public and any other invitees also present.
- 9.2 The Chairperson will seek to ensure that Members and officers are treated in accordance with the Council's agreed Protocol For Member/ Officer Relations, with regard to:
- ❑ The political neutrality of officers.
  - ❑ The independence of officers.
  - ❑ Mutual respect, courtesy, civility and professionalism with respect to differing views.
- 9.3 Members of the public are permitted to address the meeting subject to the procedure in the protocol "Representations to the County Council on Planning Applications" See Appendix 1. Where disturbance of the meeting occurs by way of public interference, the chairperson may suspend proceedings until matters are resolved.
- 9.4 The deliberations of the Committee will be confined to the published agenda plus any urgent items that have been accepted by the Chairperson in accord with the Local Government Act 1972. The order of business will generally be in accord with the agenda but the Chairperson will seek to bring forward items of business those members of the public or applicants present have come to hear.
- 9.5 The Chairperson will ensure that meetings of the Planning Committee are conducted in accordance with the Council's Committee Procedure Rules and safeguard that appropriate debate is able to take place in a structured and professional manner, with Members being given the opportunity to raise material planning issues (normally through a single presentation). The Chairperson will seek to avoid repetition or irrelevant debate.
- 9.6 Members shall endeavour to give not less than 24 hours notice (preferably in writing) to the Head of Planning Services of questions requiring a technical or detailed response so that an appropriate response can be prepared for the meeting of the Planning Committee.

- 9.7 Each planning decision shall be by way of a majority vote, taken in accord with Council procedures and this Code of Practice.
- 9.8 Planning officer(s) will update the Planning Committee on each application in respect of submissions and other material matters not addressed in the main report and, through the Chair, will be responsible for responding professionally to Member questions.
- 9.9 Appropriate legal or administration officers will be responsible for advising the Chairperson and the Committee on matters of procedure and protocol.
- 9.10 Where officers advise the Chairperson of material professional concerns or potential consequences of a particular course of action (or of any potential liabilities or errors of fact) officers shall be afforded reasonable opportunity to concisely explain those matters to the Planning Committee before it reaches a decision. Similarly, the legal officer present at the meeting shall also be permitted to intervene for the purposes of giving legal advice relating to matters of procedure and planning law at any point before the Committee reaches a decision.

## **10. PLANNING COMMITTEE SITE INSPECTIONS**

### **Purpose of Committee site inspections**

### **Requests for Committee site inspections**

### **Criteria for agreeing to hold site inspections**

### **Notification of site inspections**

### **Attendance at site inspections**

### **Conduct at site inspections**

- 10.1 Committee site inspections are fact-finding exercises to enable Members to make a more informed decision than would be possible from reading the officer's report and considering the views expressed at the Planning Committee meeting.
- 10.2 The sole purpose of site inspections is to allow Members to look at the site and its surroundings. In conducting the site visit, the Members will not formally debate the application, express a prior opinion, lobby for any particular decision or come to any decision.
- 10.3 Requests by Members for site inspections in respect of Committee cases should wherever possible be made to the Head of Planning 21 days before the Committee and in writing. Such a request should indicate by reference to material planning conditions why a site visit is necessary and should cite the features Members should inspect while on site. The Head of Planning may present the request to the Committee who shall then decide whether to agree to the Member's request.
- 10.4 Site visits may also be arranged, upon the advice of the Head of Planning, where there are particular site issues which Members should be aware of prior to the meeting of the Planning Committee.

- 10.5 Members shall only make such visits where the Planning Committee cannot otherwise make an appropriately informed decision and the inspection would have substantial benefit. The Head of Place & Sustainability will present G.I.S and photographic evidence in appropriate applications to avoid unnecessary sites visits. Examples where a site visit would not normally be appropriate include where:
- ❑ Purely policy matters or issues of principle are involved.
  - ❑ The Member simply disagrees with the conclusion reached in the report.
  - ❑ The Member wishes to consider boundary or neighbour disputes,
  - ❑ Any issues which are not material planning considerations such as loss of property values.
  - ❑ Where Councillors have already visited the site within the last 12 months, except in exceptional circumstances.
- 10.6 The applicant will be notified of site inspections, to facilitate access to the site.
- 10.7 Members of the Planning Committee in attendance at the site visit will be required to comply with any health and safety advice given in respect of the site. They will also ensure that they wear reflective jackets at all times and take any other safety measures as advised by the Head of Place & Sustainability or other officer present.
- 10.8 Members may only enter onto the site with the permission of the site owner who has the right to remain in attendance where required for organizational reasons
- 10.9 The site visit will be conducted in private. No representations from the public or Local Member can be received by the Committee at or during visits to sites. The Local Member will be invited to accompany the Committee during their site visit.
- 10.10 The inspection will be chaired by the Chairperson or Vice Chair of the Planning Committee who will ensure that it is conducted as a single meeting and in an orderly fashion.
- 10.11 The Planning Officer will give a brief summary of the application and the site inspection issues at the beginning of each site visit.
- 10.12 Members of the Planning Committee attending the site inspection shall not make comments that would create an impression that they have already formed a view on the merits of the application.
- 10.13 Members of the Planning Committee shall not discuss the application, other than to clarify issues of fact, and shall not make a decision while on site.

- 10.14 The applicant when present in the circumstances for the reasons referred to in Paragraph 10.6 will not be permitted to address Members during the site inspection
- 10.15 Members may, through the Chairperson, ask questions of officers to clarify factual matters relevant to the site inspection. Any such questions put shall be put so that all parties can hear them.
- 10.16 If a request is received from a third party to inspect the site from a different location, the Members, as a group, should take the view whether to do so.

## **11. PLANNING COMMITTEE DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

- 11.1 The Public Services Ombudsman for Wales has issued guidance on the Code of Conduct for Members of Local Authorities in Wales and in particular, the following specific guidance to Members:-

*“As a matter of good practice, where you disagree with officer recommendations in making a decision, you should give clear reasons for your decision. This applies to decisions to vote against the advice of statutory officers, even if you lose the vote. If you decide to vote against their advice, you should ensure that your reasons for doing so are recorded in the relevant minutes. You should be aware that voting against the advice of the statutory officers without good reason may be a breach of the Code.*

*In reaching decisions where the advice is not provided by the statutory officers, you should still have regard to the advice provided by officers and take it into account in reaching your decision. You may also wish to have regard to other advice you have received and, of course, to the position adopted by a political group of which you are a member. In some circumstances, such as planning decisions, you must not vote on the basis of a “whip” imposed by your group.”*

When there are instances where the Committee decide to determine an application contrary to professional advice given by the officers the Chair of the Planning Committee will ensure that the following principles are followed:-

- ❑ Members shall clearly express the planning reason(s) for their decision (and these shall be minuted).
  - ❑ A member proposing refusal of an application for which the officer recommendation is approval shall state his/her reasons prior to the vote being taken. In some cases, when this occurs, the matter may need to be deferred for a further report.
- 11.2 Officers shall be given an opportunity to explain to the Planning Committee the planning and/or legal implications of their intended decision before the decision is confirmed.

- 11.3 Where the Planning Committee wishes to add or amend conditions/ reasons or attach a planning obligation, officers shall be given the opportunity to explain the planning and/or legal implications before the decision is confirmed.

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

- 12.1 Officers will organise and generally appear as witnesses at planning appeals and other proceedings on behalf of the Council. In some circumstances (such as where specialist evidence is required or where a Member decision is contrary to officer recommendation) it may be necessary to appoint consultants to appear for the Council.
- 12.2 In giving evidence Officers will present the best possible case on behalf of the Council while complying with the RTPI Code of Professional Conduct. The Royal Town Planning Institute Code of Professional Practice requires, inter alia, that Planning Officers who are members of the Institute do not make statements purporting to be their own, but which are contrary to their bona fide professional opinion.
- 12.3 In cases where the appeal is against a decision, which the Committee has made contrary to Officers' recommendation, the planning case-officer may be able to give evidence. However, in some cases, another officer or consultants will be employed if the Head of Place & Sustainability considers that the case-officer's previously stated views (or those of the Planning Services as a whole) might be unhelpful to presenting the Committee's position.
- 12.4 Members can have an important role to play in appeals and may, within set deadlines, make written representations to the Inspector and may also appear at informal hearings or as a witness at public local inquiries. In doing so they should state whether they are acting in their local Councillor capacity or, exceptionally, representing the Council's case.
- 12.5 Where planning officers are unable to defend decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute) the Planning Committee should be aware of this before the final vote is taken. In such cases, the Committee shall nominate (at least) two of its members who voted contrary to the recommendation to appear at any appeal and explain the Committee's decisions and the reasons for them. These should normally be the proposer and seconder of the proposal, which was contrary to officers' recommendation.
- 12.6 Planning and Legal Officers will support Members attending or wishing to make representations at appeals and advise them on preparing and delivering evidence. Legal Officers will attend Inquiries and / or assist in preparing representations when Legal representation is required

### **13. MEMBER TRAINING**

- 13.1 The Council considers that members of the Planning Committee should undertake training and that this opportunity be offered to all members. Council Procedure Rules provide that only members who have attended appropriate training shall be allowed to sit as members of the Planning Committee.
- 13.2 Members will be offered and be expected to attend core training (normally within three months of appointment to the Committee). The subject matter will cover planning procedures, the development plan and material planning considerations, probity and other subjects determined from time to time by officers in consultation with the Members.
- 13.3 Other training will be available in the form of additional sessions, short presentations to the Committee and the circulation of briefing notes.
- 13.4 Attendance at training events will be recorded and will be monitored through the relevant Scrutiny Committee, Members of the Planning Committee must receive annual training.

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

- 14.1 The Audit Commission's Report 'Building Quality' recommends that Councillors should visit a sample of implemented planning permissions to assess the quality of the decisions. The purpose of such a review is not to change decisions, but to assess and improve the quality and consistency of decisions and thereby strengthen public confidence and assist in reviewing planning policy.
- 14.2 The Planning Committee will undertake an annual review of a sample of planning decisions made by the Committee. The review will include examples from a range of development types (e.g. major residential proposals, listed building consents and enforcement cases) and, where it is considered appropriate and beneficial, include visits to the sites.
- 14.3 The Planning Committee will formally consider the results of the review and decide whether it gives rise to the need for new policies, procedures and practices.
- 14.4 The outcome of appeals against the decisions of the Council will be reported regularly to Planning Committee so that any lessons can be learned. The outcome of enforcement cases and legal proceedings will also be reported regularly so that the Planning Committee is kept up to date.