

Protocol for Councillors Dealing with Planning Matters and Pre-Application Discussions

1. This Protocol is designed to assist Councillors in complying with the Councillors' Code of Conduct (the 'Code'). It is also intended to be of assistance to members of the public who may become involved or interested in a planning matter so that they can understand why Councillors might respond to certain discussions in certain ways.

The Code – Key Points

2. Councillors must not allow the impression to arise that they have already made up their minds before taking part in a decision and many of the points in the Code, and in this Protocol, address this key point.
3. It is important to note that not all Councillors take part in all planning decisions, but all Councillors may become involved in applications referred to the Council for determination and all Councillors must comply with the Code. Councillors may have to deal with planning decisions in a number of ways. They may:
 - 3.1 become involved in local cases as a ward representative; or
 - 3.2 be more actively involved in decision making:
 - (i) as a member of the Regulatory Panel;
 - (ii) in certain cases, they may be a member of the Panel where applications are subject to a pre-determination hearing;
 - (iii) as an Elected Member dealing with applications referred to the full Council for determination; and / or
 - (iv) as a member of the Council's Local Review Body dealing with reviews where officers acting under delegated authority have refused planning permission or granted it subject to conditions which the applicant does not agree with or of non-determination of the application by the officer; or have not dealt with the application within the prescribed timescale.
4. A Councillor must never seek to pressure planning officers to provide a particular recommendation on any planning decision nor seek privately to lobby other Councillors who have a responsibility for dealing with the application in question.
5. Councillors who propose to take part in the decision making and / or review processes (be it at Regulatory Panel, or full Council or Local Review Body) must not give grounds for there to be any doubt as to their impartiality.
6. Councillors who have an interest, whether financial or non-financial, in the outcome of a decision on a planning application, or the terms of a planning agreement, or in taking enforcement action, or in the outcome of a Local Review

Body, must declare that interest and refrain from taking part in making the decision.

7. Councillors who will be participating in making the appropriate decision must not organise support for, or opposition to, or lobby other Councillors or act as an advocate to promote a particular recommendation on a planning application, on a planning agreement, on taking enforcement action, or on a review by the Local Review Body.
8. Councillors are not precluded from raising issues or concerns on any of the matters associated with an application with the planning officers concerned, or from attending public meetings/events, nor from assisting constituents in making their views known to the relevant planning officer. However, Councillors with a decision making responsibility are advised that they should at no time express a 'for' or 'against' view by advocating a position in advance of the decision making meeting *other than* in respect of the following circumstances:
 - 8.1 a Councillor may be asked to comment on requests to the Council as planning authority for a 'provisional view' on a major planning application. In this circumstance a Councillor is entitled to express an opinion in advance of the statutory application for planning permission being submitted – but only as part of the Council's procedures for forming such a provisional view (noting that this Council has not yet adopted a formal procedure for forming provisional views); and
 - 8.2 Councillors are entitled to take part in decisions to be made by the full Council even though they may have expressed an opinion on the application at a pre-determination hearing or at the Regulatory Panel; and
 - 8.3 where Councillors who would usually take part in the decision making process wish to make representations on behalf of constituents or other parties, they may do so providing:
 - 8.3.1 they do so in terms of procedures agreed by the Council which afford equal opportunity to any parties wishing to make representations to also do so;
 - 8.3.2 they declare their interest in the matter at the meeting at which the decision is to be taken; and
 - 8.3.3 having made those representations, whether prior to or at the meeting at which the decision is to be taken or at it, they then retire from the meeting room so that they do not take part in the decision.

Additional Clarification

9. The terms of the Code are binding on Councillors. The points under the headings that follow are designed to provide additional clarification, to assist Councillors and members of the public.

Planning Advice and Meetings

10. Only the Council's planning officers are in a position to offer planning advice and so any member of the public who requires advice should seek this from planning officers. It will not always be possible for Councillors to arrange this in advance, for example if a constituent raises a matter at a surgery meeting. Accordingly, Councillors are advised to make it clear in any conversations that take place between them and members of the public (including Developers) that only the Council's planning officers are in a position to offer planning advice and to suggest that a separate meeting be arranged with a planning officer in attendance if such advice is required.
11. If a member of the public (who may be a Developer) requests a formal meeting with a Councillor in relation to a planning matter, Councillors should invite a planning officer to the meeting, to provide advice generally, to support the Councillor and to take minutes if appropriate.
12. In agreeing to meet with members of the public (including Developers), Councillors should make it clear that they must either remain impartial, neither supporting nor opposing any proposal, or else absent themselves from any decision making process that might follow and in which they would otherwise be involved.
13. Prospective applicants for major planning applications are required to undertake pre-application consultation prior to submitting their proposals. Such consultation can take the form of public meetings or exhibitions, and Councillors will often be invited to these meetings. Provided such meetings are held in public, and Councillors do not articulate any views in support of or opposition to any proposals that could be seen to have compromised their impartiality, then their attendance will not impact on their subsequent participation in decision making.
14. When a community council (being a statutory consultee) or other community group or body is considering its views on a planning application, Councillors present at the meeting who expect to be involved in the eventual decision making process should withdraw from the meeting during discussion of that item on the agenda, or ensure that they do not participate in the subsequent decision making process.