

# PLANNING CODE OF CONDUCT

This code of conduct was formally adopted by the Stroud District Council on the 20<sup>th</sup> April 2000 and was updated in 2015 to reflect changes in relevant law and other subsequent changes to the Council's Constitution. It seeks to demonstrate the Council's commitment to the highest possible standards of behaviour in its operation of the planning system.

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## **1. GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 1.1 The successful operation of the planning system relies on ensuring that Councillors and Officers involved in its operation act in a way that is not only lawful, fair and impartial but is also clearly seen to be so. The Council acknowledges that the public is entitled to expect the highest standards of conduct and probity by all persons holding public office.
- 1.2 The overriding principle is that Councillors appointed to the Development Control Committee should not favour any individuals or groups and must represent their constituents as a body and vote in the interests of the District as a whole. Clearly Councillors will take account of all views expressed but they should not deliberately favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 1.3 When dealing with planning matters only material planning considerations should be taken into account. Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 1.4 Whilst this Local Code deals primarily with planning applications, the principles it endorses apply with equal vigour to consideration of the Local Plan and associated development briefs, enforcement cases and all other planning matters.
- 1.5 Officers involved in the processing and determination of planning matters must also act impartially and in accordance with the Council's Code of Conduct for Local Government Employees (so far as is relevant). In addition those that are members of the Royal Town Planning Institute are expected to comply with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.
- 1.6 Only Councillors and Officers of the Council who are prepared to observe this Code ought to be involved in the process of dealing with planning matters, such as determining planning applications, applications for listed building consent and applications for conservation area consent.

## **2. DECLARATION AND REGISTRATION OF INTERESTS**

- 2.1 Councillors will declare and register interests as required by the Council's Code of Conduct for Members at Section 5 of this Constitution.
- 2.2 Councillors will also need to comply with the provisions of that Code that prevent them taking part when they have an interest.

### **3. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS, AND COUNCIL DEVELOPMENT**

- 3.1** Serving Councillors of the Development Control Committee in accordance with recognised good practice should not act in any way for anyone pursuing a planning matter within the area of the District Council. No Councillor whose employment or business involves dealing with planning matters within the district should be a member of the Development Control Committee. All Councillors and their appropriate Group Leaders must consider the appropriateness of their involvement in the committee. They are required to make a reasonable assessment of whether their professional interests would preclude them from sitting on the committee. Advice should be sought from the Monitoring Officer in advance of any appointments. It is anticipated that a cautious (whilst practical) approach in the interests of the Council should generally be taken.
- 3.2** Notwithstanding the general requirements regarding declarations of interests if a Councillor or Officer of the Council, (or any close relative, or associate) submits their own development proposal to the Council, they should take no part in its processing. Furthermore the relevant Councillor or Officer shall inform in writing the Strategic Head (Development Services) or the Planning Manager and copy to the Monitoring Officer, all such proposals as soon as they are submitted. In deciding whether any such application should be dealt with as a Committee report or under the Scheme of Delegation the Strategic Head (Development Services) and the Planning Manager will have regard to the overriding issue of avoiding any suspicion of impropriety.
- 3.3** Proposals for the Council's own development (or a development involving the Council and another party) should be treated in the same way as those by private developers and in accordance with relevant statutory guidance. The same administrative process, including consultation, should be carried out in relation to the Council's own planning applications, and they should be determined against the same policy background (i.e. the Development Plan and any other material planning considerations). This paragraph also applies to private applications in respect of Council owned land (e.g. prior to a land sale being agreed or negotiated). Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating such applications on an equal footing with all other applications as well as actually doing so.

### **4. LOBBYING OF AND BY COUNCILLORS, AND ATTENDANCE AT PUBLIC MEETINGS**

- 4.1** If Councillors are to undertake fully their constituency roles it is inevitable that they may, or will be, subject to lobbying on planning matters and specific planning applications. Lobbying is a normal and perfectly proper part of the political process. Local concerns need to be adequately aired. However in the context of deciding on a planning application great care is required of

Councillors in order to maintain both the Council's and the Councillor's own integrity as well as the public perception of the impartiality of the planning process. .

- 4.2 As a result of the legal requirement to make planning decisions impartially, Councillors should not consciously favour, or appear to favour, any person, company, group or locality. As a matter of general principle a Councillor who fully commits him/herself to a particular view on a planning application prior to its consideration at Committee should not take part in the formal decision making process. A previously declared view must raise the presumption that the Councillor has prejudiced his/her position, cannot objectively assess the full facts before the Committee, and is unable to contribute fully to the debate in accordance with the legal and ethical framework. Accordingly where a Councillor has publicly declared or otherwise made known a conclusive view on the planning matter or application before the meeting and whilst it is a matter for the individual councillor, he/she should not take part in the debate on, or vote on the issue.
- 4.3 Where a District Councillor (who is a member of the Committee) is also a Parish/Town Councillor there is a need for caution to be exercised in considering matters at the Parish/Town Council stage. This is because of the Councillor's additional responsibility as a member of the District Committee charged with making a decision on the planning application. It is important to bear in mind that Parish/Town Councils are consultees in the planning process and may be asked for their comments on an application at a time when not all the relevant material planning considerations have been received and the full implications of an application investigated. As a result it would normally be inappropriate to participate in the vote that decides the Parish/Town Council's comments and views on an application. Participating in such a vote could be construed as expressing a conclusive view on an application – contrary to the requirement mentioned in the preceding paragraph. A District Councillor's expertise as a member of the Committee can be put to its best use in advising and guiding the Parish/Town Council on the planning issues that arise from the application. When the application comes to be decided by the Local Planning Authority the views of the Parish/Town Council will be considered and taken into account.
- 4.4 Where the Monitoring Officer believes that a Councillor has prejudiced his/her position by expressing a conclusive view on an application before its determination by the Committee, the Monitoring Officer will advise the Councillor that it would be inappropriate for him/her to take part in the debate, or vote on the application.
- 4.5 In order to avoid such action Councillors who will be involved in the determination of a planning matter should, prior to the meeting, listen to points of view about a planning proposal. Where an applicant requires planning or procedural advice the applicant should be referred to the appropriate officer. In most cases, particularly for matters which are likely to be controversial, Councillors should not indicate (or give the impression of) clear support or opposition to a proposal in a manner which suggests he/she has a closed mind

to any other views or further information which may be available at the meeting at which the planning matter is discussed. In particular Councillors should not declare their voting intention before the meeting at which a decision is to be taken. To do so without all relevant information and views would be unfair and prejudicial and may amount to maladministration. The system must be seen to be fair to all parties.

- 4.6 Accusations of partiality can be avoided if a Councillor has not openly declared before a meeting the way he/she intends to vote. Short of high profile lobbying for a particular outcome, it should be possible for a Councillor to indicate support to a particular body of opinion whilst waiting until the Development Control Committee and hearing all the evidence presented before making a final decision. This is important because of the Councillor's overriding duty to the whole local community.
- 4.7 Whilst Councillors involved in making decisions on planning matters will begin to form a view as more information and options become available, a decision can only be taken by the Committee when all available information is to hand and has been duly considered. Individual Councillors should reach their own conclusions on an application or other planning matter rather than follow the lead of another Councillor or their political group. No political group meetings should be held prior to a meeting of the Development Control Committee.
- 4.8 It follows that Councillors involved in the decision making on planning matters should not organise support or opposition to a proposal, lobby other Councillors, act as an advocate or put pressure on officers for a particular recommendation. However, other Councillors (who are not part of the decision making process) within a Ward can make representations and address the relevant Committee pursuant to the Council's Standing Orders.
- 4.9 Similarly Councillors involved in the determination of planning applications should take great care to maintain impartiality when attending public meetings in relation to planning matters. At such meetings it is preferable for no view on the merits or otherwise of a proposal to be given. If a view is expressed it should be made clear that this view will be reconsidered in the light of all the information at the Development Control meetings.
- 4.10 Where a member of the Development Control Committee finds him/herself in a lobbying situation, the Councillor should actively take steps to explain that whilst he/she can listen to what is said, it prejudices his/her impartiality to express a firm point of view or an intention to vote one way or another.
- 4.11 If a Councillor involved in determining planning matters has responded to lobbying by openly advocating a particular course of action prior to a Committee meeting, that Councillor should declare such an interest and whilst it is a matter for the individual councillor, he should not take any part in the decision making process even if he does not have an interest under the Members' Code of Conduct. It is acknowledged that this requirement may well cause practical difficulties for Councillors. There is however the compelling requirement to

ensure that a planning application is processed and determined in a transparently open and fair manner.

- 4.12 Officers involved in the processing or determination of planning matters should not attend public meetings in connection with development proposals (i.e. pre-application) or submitted planning applications unless those meetings have been arranged by or with the express agreement of the Council or the senior planning manager has given his/her consent to the attendance. When attending such meetings extreme caution should be exercised in giving any views on the application. Officers should only provide information by way of explaining background or policy and give no view on the merits or otherwise of the proposal.
- 4.13 If Councillors consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer, who will in turn advise the appropriate Officers.
- 4.14 Councillors serving on the Development Control Committee should attend, debate and vote on all the applications included on the Schedule unless the individual member decides that a conflict of interests necessitates his/her withdrawal from consideration of a particular item.

## **5 OFFICERS' PRE-APPLICATION DISCUSSIONS WITH APPLICANTS**

- 5.1 In any discussions on planning issues, it will always be made clear at the outset, that such discussions will not bind the Council to make a particular decision, and that any views expressed are based on the Officers provisional professional judgement but do not commit the Council to any particular decision.
- 5.2 Advice given will be consistent and based upon the Development Plan and other material considerations. Every effort will be made to ensure that there are no significant differences of interpretation of planning policies between planning officers.
- 5.3 A written note will be made of pre-application discussions where appropriate and two or more Officers will attend meetings on major planning issues. As a matter of standard good practice a follow up letter will be sent, particularly when material has been left with the Council.
- 5.4 Every effort will be made to ensure that advice is impartial.
- 5.5 To maintain impartiality it is preferable that Councillors do not take part in the officers' pre-application discussions with applicants. Should there be occasions when Councillors are involved, they will be advised by the appropriate professional officers of the Council, which will always include a senior planning officer. The involvement of Councillors in such discussions will be recorded as a written file record.

## **6. OFFICER REPORTS TO COMMITTEE**

- 6.1 Reports to Committee on planning matters must be accurate and cover all relevant points. Where a planning application is subject to a full report this will refer to the provisions of the Development Plan, all other relevant material planning considerations. Normally the report will include a full description of the site and any related planning history. It will include the substance of objections and the views of people who have been consulted.
- 6.2 All reports will have a written recommendation of action/decision, and oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur.
- 6.3 All reports will contain a technical appraisal which clearly justifies the stated recommendation.
- 6.4 All reasons for refusal and conditions to be attached to permissions must be clear, unambiguous and in accordance with law and policy.

## **7. THE DECISION MAKING PROCESS AND DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN**

- 7.1 In determining all types of planning related applications the Council will follow the relevant government guidance and case law.
- 7.2 In discussing, and then determining, a planning application or other planning matter Councillors will confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing, and supported by planning evidence. If Councillors wish to refuse or grant an application against Officer advice or impose additional conditions on a permission, the reasons for refusal, grant or the additional conditions must be clearly stated at the time the propositions are moved at the meeting.
- 7.3 If a resolution is passed which is contrary to a recommendation of the relevant planning officer (whether for approval or refusal) a detailed Minute of the Committee's reasons will be made. Officers shall be given the opportunity to explain the implications of the contrary proposal immediately prior to the Chair's final statement and vote.
- 7.4 Planning decisions (unless delegated) are made when the Committee is in public session. It is expected that Councillors will conduct the business of the Committee in a fair and sensitive manner. The debate on a planning application will be confined to the planning merits of a development proposal. In addition Councillors and Officers will address one another during the debate in a proper manner and through the Chair.
- 7.5 If the Officer report recommends approval of a departure from the Development Plan, the justification for this should be included, in full, in the report.
- 7.6 Senior Legal and Planning Officers should attend meetings of the Committee to ensure that procedures have been properly followed and planning issues properly addressed.

- 7.7 Councillors with interests under the Members' Code of Conduct should withdraw from the meeting and not speak or vote in the decision making process. If they insist on so doing the decision reached by the relevant Committee may well be open to legal challenge, or result in a finding of maladministration against the Council including cases where the Ombudsman personally names the Councillor in his decision letter. Councillors are also reminded of the advice in section 4 above which covers situations other than those where interests arise pursuant to the Members' Code of Conduct.
- 7.8 Where a Councillor wishes to support the Council or an appellant in respect of any appeal against a refusal of planning permission, or in civil or criminal enforcement action that Councillor shall notify in writing (normally at least 7 days before any Inquiry or Hearing) his/her intention to the Head of Legal Services.
- 7.9 In deciding whether to make representations in a personal or private capacity, the Councillor should consider very carefully beforehand, whether there could be any allegation of a conflict of interest as set out in the Council's Code of Conduct for Members.

## **8. SITE VISITS**

- 8.1 A decision by the Committee to carry out a site visit should normally only take place where the expected benefit to the decision making process is substantial and objective decisions cannot be taken without viewing the site and adjoining properties.
- 8.2 Accordingly, a Councillor proposing a site visit should explain why a site visit is necessary and these reasons should be recorded prior to a decision being taken by the Committee on whether the requested site visit should take place.
- 8.3 At the site visit, Councillors are there to view the site and not to hear representations. A decision on the application will be made at the next full meeting of the Development Control Committee in the light of all the information then available.

## **9. WHIPPING AND POLITICAL PRE-MEETINGS**

- 9.1 The Whip will not apply from any of the political groups on their respective members of the Committee while they are taking part in Development Control business. No political meetings of Development Control Committee members shall take place.

## **10. COMPLAINTS AND RECORD KEEPING**

- 10.1 In order that any complaints can be fully investigated, record keeping will be complete and accurate. In particular, every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.

- 10.2 The same principles of good record keeping will be observed in relation to enforcement and development plan matters. Monitoring of record keeping will be undertaken on a continuous basis by officers.