

# PLANNING COMMITTEE HANDBOOK

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July 2023

## Mission Statement

To assist managed and sustainable economic growth and respect local character by balancing interests in an open and efficient way which delivers the right development, in the right way at the right time.

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## Introduction

The Planning Committee is one of the more familiar meetings that the Council holds. It often attracts significant interest as a result of the planning applications it is responsible for determining. The Committee has to operate within certain rules and procedures to ensure that development proposals are properly, fairly and efficiently considered in a transparent and open manner.

This guide has been produced to bring together all of these rules and procedures so that those wishing to follow the workings of the Committee, or participate in the planning process, will know what to expect.

It is intended that the guide will be a useful reference for residents, applicants, Ward Councillors, Parish and Town Councils, Neighbourhood Forums and of course the Planning Committee Members themselves.

## Solihull's Planning Committee

At Solihull Council, the Planning Committee is made up of nine councillors who generally meet every four weeks on a Wednesday evening at 6:00 pm.

The current membership of the Committee, together with the dates of forthcoming meetings can be found at [www.solihull.gov.uk/planningcommittee](http://www.solihull.gov.uk/planningcommittee). This link will also provide access to the agendas and minutes of previous meetings.

Meetings are held in the Civic Suite (located to the rear of the Council House) which is accessed off Manor Square (opposite St Alphege Church). The following postcode can be used in navigation devices to locate the venue B91 3QB. Car parking for members of the public is available around the Council House from 4:30 pm onwards and parking charges may be applicable.

The meetings are usually live streamed and can be watched on the Council's [meetings channel](#). Past meetings can be watched on demand by viewing the library in the meetings channel.

The Planning Committee do not determine all the planning applications submitted to the Council. Many applications are simple and straight forward and are dealt with by officers using powers delegated to them from the Committee. This enables the Planning Committee to concentrate on the major and significant proposals and/or those that are controversial. The delegation agreement sets out which applications will be determined by the Committee. This is explained in a later chapter of this handbook.

Committee meetings usually last between 2 to 3 hours and will typically determine up to eight applications at each meeting. Planning Committee Members must determine each application in accordance with the policies in the Council's Local Plan<sup>1</sup> unless 'material considerations' indicate otherwise. 'Material considerations' will include national policy in the form of the Government's National Planning Policy Framework. Planning Committee members can not approve or refuse applications simply because they may like or dislike the proposals or refuse applications because that would be popular.

The Council is keen to ensure that residents, and others, have an opportunity to comment on development proposals and to have their views taken into account. In some instances, Members have to balance competing interests which can result in some applications being approved although there may have been many objections<sup>2</sup>. This does not mean that the comments have been ignored; rather it is that Members have made a balanced, but informed, judgement. The Planning Officer's report sets out the considerations that Members are invited to take into account in assessing each application.

## Delegated Decisions

The Council's planning powers fall into two main areas – making policy and determining applications.

Within Solihull, the responsibility for making planning policy is an executive function which is undertaken by the Cabinet Member for Climate Change, Planning and Housing and the Council's Cabinet. In addition, some of the decisions on policy matters have to be made by a meeting of the Full Council.

Matters related to the determination of planning applications (and some other regulatory functions) are for the Planning Committee to undertake on behalf of the Council. The decision on simple, straightforward and uncontroversial applications can be delegated to officers. This allows the Planning Committee to focus on the major, significant and potentially controversial proposals.

### *Planning Functions of the Planning Committee*

All regulatory matters under the Town & Country Planning Act (1990) (TCPA) (as amended) or any other planning related acts<sup>3</sup>, but not policy or other executive functions.

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<sup>1</sup> The Council adopted the "Solihull Local Plan" in December 2013 and this constitutes 'the development plan' for the purposes of planning legislation. A review of the Solihull Local Plan is reaching its final stages of examination and at the time that this is adopted will replace the December 2013 plan. Full details of the local plan can be found at [www.solihull.gov.uk/ldf](http://www.solihull.gov.uk/ldf).

<sup>2</sup> Government guidance is that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded upon valid material planning reasons. Section 70(2) TCPA deals with material considerations.

<sup>3</sup> This includes any acts repealing and re-enacting planning related acts and any new acts together with any associated statutory instruments.

## *Planning Functions Delegated to the Head of Planning, Design and Engagement from the Planning Committee*

The determination of all non-executive planning decisions and allied and related regulatory decisions (except where they fall to be dealt with elsewhere as required by the Constitution). This includes all planning applications and applications for advertisement consent, listed building consent, works to trees covered by a Tree Preservation Order or situated within a Conservation Area and the making and confirmation of new Tree Preservation Orders, as well as a range of planning related submissions regarding HS2 matters, which are delegated to the Head of Planning, Design and Engagement except for the following which must be exercised by the Planning Committee:

1. The determination of planning and allied<sup>4</sup> applications which provide for, or include the following:
  - a) A substantial departure from the development plan which it is not proposed to refuse.
  - b) The Council is entering into an agreement under S106 of the Act unless:
    - (i) the application repeats, amends or otherwise updates/ varies a similar agreement already entered into or relates to a minor and non-controversial matter. or
    - (ii) Where an application is required to be presented to planning committee for no other reason than for a S106, and the requirements of that S106 are fully policy compliant the decision will be made under delegated authority. This may relate to standard areas such as biodiversity net gain, green travel plans or affordable housing.
  - c) The approval of an application which in the opinion of the Head of Planning, Design and Engagement would have a significant impact outside of its immediate vicinity, e.g. it would generate significant volumes of traffic, or it would have a significant impact on trading; or it would be a prominent feature in the landscape, unless the proposals are an amendment to an existing approval.
  - d) Any application that generates 6 or more representations consisting of **material planning issues** that are contrary to the officer recommendation shall go to planning committee. Multiple addresses from the same household shall count as a single representation. Anonymous representations, or those that fail to pass on the author's address are not taken into account. Applications covered by HS2 will be dealt with by the relevant section of the handbook.
  - e) Prior approvals have a 56 day prescribed determination timeframe and permission is granted by default unless an extension of time can be entered into between the Local Planning Authority and applicant. Where other committee triggers are met, and the timeframe can be adhered to, committee decisions will remain in place. Where it is not possible to report the matter to Planning Committee within these timeframes and where the planning recommendation is one of approval, it shall be delegated to the Head of Planning, Design and Engagement in consultation with the Planning Committee Chairman and Vice Chairman.

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<sup>4</sup> Including (but not exclusively so) applications relating to advertisements, listed buildings, lawful development certificates etc.

- f) Where an application has previously been refused at Planning Committee and a resubmission is received which has an officer recommendation for approval.
- g) Any Member makes a written request, setting out planning reason(s) why an application should not be determined under delegated powers, before the neighbour notification period expires<sup>5</sup> whether through the initial neighbour notification period or any subsequent notification of amendments.
- h) The application has been submitted by or on behalf of the Council<sup>6</sup> or relates to Council owned land where there has been at least six objections on land use planning grounds. Where less than six objections are received the decision shall be delegated to the Head of Planning, Design and Engagement in consultation with the Planning Chairman and Vice Chairman.
- i) The amendment of existing S106 agreements which seek to reduce the mitigation required in connection with a development.
- j) The applicant is an elected member of Solihull Metropolitan Borough Council (or a close relative<sup>7</sup> of a member).
- k) The application has been submitted by a senior officer<sup>8</sup> of the Council or a Planning Officer (or close relative of such an officer<sup>7</sup>) and where there have been at least six objections on land use planning grounds. Where less than six objections have been received the decision shall be delegated to the Head of Planning, Design and Engagement in consultation with the Planning Chairman and Vice Chairman.

In exercising delegated powers the Head of Planning, Design and Engagement shall ensure that any planning and allied application that gives rise to an objection, but does not otherwise fall within one of the classes outlined above, shall only be determined following an assessment by the case officer and a review by a senior officer.

2. Authorisation of enforcement action, including through the Courts<sup>9</sup>, where in the opinion of the Head of Planning, Design and Engagement the matter relates to a sensitive or controversial case (with the exception of emergency actions). Please refer to the SMBC Local Enforcement Plan [here](#).
3. The making and confirmation of a Tree Preservation Order where 6 or more objections are received against its designation.
4. Powers in relation to a joint committee including creating, conferring powers and dissolution of such a committee under sections 29-31 of the Planning & Compulsory Purchase Act 2004.
5. Power to serve a completion notice under section 94(2) of the TCPA.

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<sup>5</sup> In the event that an objection has been received then this period is extended by an additional 5 working days.

<sup>6</sup> For these purposes this will also include applications submitted by local authority schools, Solihull Community Housing and any other semi-autonomous organisations that report or are otherwise managed by the Council.

<sup>7</sup> Close relative includes their spouse, civil partner, co-habiting partner (or person with whom they are living as if they are civil partners or spouse), sibling, parent or son/daughter.

<sup>8</sup> A senior officer of the Council being any officer at Head of Service level or above.

<sup>9</sup> This includes (but not exclusively so) powers under section 171C, 172, 187A, 183(1) & 215 of the Town & Country Planning Act 1990; associated enforcement powers in the Planning (Listed Buildings and Conservation Areas) Act 1990; and the instigation of prosecutions.

6. Power to determine applications for Hazardous Substances consent under the Planning (Hazardous Substances) Act 1990.
7. Power to serve a building preservation notice under the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (with the exception of emergency actions).
8. Powers to execute urgent works under the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (with the exception of emergency actions).
9. Review of Old Mineral Permissions (ROMPs) and similar under the Planning & Compensation Power Act 1991 and the Environment Act 1995
10. To register common land or town/village greens.

Nothing in the delegation agreement shall prevent the Head of Planning, Design and Engagement reporting any matter to Planning Committee for a decision if considered appropriate.

### *Additional Matters Delegated to the Head of Planning, Design and Engagement*

Notwithstanding the above, the following additional matters may be dealt under delegated powers to the Head of Planning, Design and Engagement:

1. The making of amendments<sup>10</sup> to conditions and/or reasons in relation to applications that have been reported to Planning Committee but before the decision notice is despatched.
2. The completion of S106 agreements following a resolution of Planning Committee to grant permission and the heads of terms<sup>11</sup> from the committee report have been incorporated into the agreement.
3. The refusal of applications which Planning Committee resolved to approve subject to a S106 agreement in instances when the agreement has not been signed in a timely<sup>12</sup> manner.
4. The completion of a Section 106 agreement in so far as it is requested by an Independent Inspector overseeing an appeal process whereby such a document is procedurally required. The Head of Planning, Design and Engagement will inform the Chair of Committee of all such cases.

## Managing Submissions relating to HS2

Following Royal Assent in 2017, works relating to Phase One of HS2 have now commenced. The permission granted by the Act for the construction of the railway is subject to a number of conditions requiring the nominated undertaker (the party or parties who will construct the railway) to obtain the consent or approval of the Local Planning Authority (LPA) for certain matters. Given the expected impact of these works, the Council signed the 'Planning

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<sup>10</sup> This would relate to drafting amendments that would provide greater clarity or robustness to the conditions and/or reasons and would not be used to omit conditions/reasons added by the Committee.

<sup>11</sup> A head of term may not necessarily be incorporated into the agreement if a material change in circumstances indicates that such provision is no longer required.

<sup>12</sup> In the opinion of the Head of Planning Design and Engagement

Memorandum' in July 2016 meaning it became a 'Qualifying Authority' under the terms of the Act. In doing so it means the Council is responsible for issuing consents and approvals, under Schedule 17 of the Act, which manages the specific conditions attached to the deemed planning consent afforded by The Act. This relates to the design and construction details of such matters as buildings and road vehicle parks; earthworks; sight, noise or dust screens; transformers, telecommunication masts; pedestrian access to the railway line; fences or walls; artificial lighting equipment; conditions relating to road transport, conditions relating to waste and soil disposal and excavation, conditions on bringing scheduled works and depots into use, conditions relating to discontinuation of ancillary operations and conditions relating to site restoration. The Act also includes the construction of the first new station outside of London, located at Arden Cross.

Whilst the majority of submissions are to be managed under Schedule 17 of the Act, other parts of The Act also generate the potential for submissions or notifications to be made to the Council for approval in its role as Local Planning Authority. These include:

- Schedule 16: These submissions relate to the temporary use and possession of land. They can also cover the reinstatement of sites following the use of land by HS2 but where the land is no longer required.
- Schedule 18: This considers the impacts and matters regarding specific Listed Buildings that are to be impacted by the delivery of the railway. Within Solihull this relates principally to the Grade II listed Jerrings Hall and the Grade II\* Park Farm.

Other main consents such as those made under Schedule 4 are considered by the Local Highway Authority and Schedule 33 by the Local Lead Flood Authority. Relevant submissions under Section 61 of the Control of Pollution Act (1974) are managed outside of the Planning process. Where works relating to the railway fall outside of 'Act limits' then works will be considered under traditional planning powers.

To support the Councils decision making process a bespoke scheme of delegation was approved by Cabinet in October 2017. This has now been reviewed and is incorporated into the Councils Planning Committee Handbook for the first time.

### *Scheme of Delegation for HS2 Planning Submissions*

As a Qualifying Authority, the Council is bound by the requirements of the Planning Memorandum<sup>13</sup>. This includes the requirement to determine requests for approval expeditiously meaning the LPA should aim to determine requests within an 8-week period, regardless of scale or complexity. Delegated powers should, where appropriate, therefore be exercised so that only the most significant submissions are brought before Planning Committee. The Planning Memorandum states:

“When necessary, the qualifying authority shall put in place appropriate internal decision-making arrangements to ensure that this timetable for determining requests is achieved. If adherence to the normal committee cycle would make it difficult to reach decisions in accordance with the timetable, consideration should be given to authorising greater delegated powers for officers and/or the formation of a dedicated sub-committee”.

In 2017 Cabinet agreed that “Delegated Authority be granted to the Head of Planning, Design and Engagement Services to determine all requests for approval and notifications

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<sup>13</sup> [Planning Memorandum.pdf \(publishing.service.gov.uk\)](#)

submitted in relation to HS2 matters in consultation with the Chairman of Planning Committee and Cabinet Member”. Cabinet also agreed to keeping the scheme of delegation under review. Following the first 5-year period of determining HS2 submissions, a review of the delegation process has been undertaken. The following approach is now established:

1. Delegated Authority is granted to the Head of Planning, Design and Engagement Services to determine requests for approval and notifications submitted in relation to HS2 matters where one or more of the following criteria are met:
  - a) The proposal is a material amendment to an existing approval and any representations received do not relate to the variation proposed.
  - b) The proposal is a non-material amendment to an existing approval.
  - c) The proposal has received no objections from statutory consultees, internal consultees, ward members, a relevant parish council or interested third parties.
  
2. Requests for approval and notifications submitted in relation to HS2 matters will be determined by the Councils Planning Committee where:
  - a) The proposal has given rise to 6 or more responses from members of the public which differ to the recommendation of officers. In order to count towards this threshold, such responses should relate to relevant matters that can be considered under the relevant Schedule of The Act<sup>14</sup>.
  - b) A request for approval has previously been refused at Planning Committee and a resubmission is received which has an officer recommendation for approval.
  - c) A ward member from the ward within which the submission is located has called in the proposal to Planning Committee providing clear reasons in accordance with the conditions specified in the relevant Schedule of The Act.
  
3. Where requests for approval and notifications submitted in relation to HS2 matters do not meet the criteria of Parts 1 or 2 (above) Delegated Authority is granted to the Head of Planning, Design and Engagement Services to determine such requests in consultation with the Chairman of Planning Committee and Cabinet Member with responsibility for planning.

Requests related to discharge of conditions will be managed in the same way as those relating to traditional planning applications.

## Advice for Ward Councillors

### *Role of a Ward Councillor*

You are able to represent your constituents (whether as objectors, applicants or supporters) as you believe appropriate. This can include advising, helping, or campaigning for a particular outcome on an application, or simply passing on their comments to the case officer. In conducting this business, you should do so in accordance with the Code of Conduct for Councillors, and also in accordance with the Council's Planning Code of

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<sup>14</sup> To be agreed in consultation the Chair of Planning Committee; Cabinet Member with responsibility for planning; and Head of Planning Design and Engagement Services.

Conduct. This is the code applicable to all Members of the Council, not only those serving on the Planning Committee.

However, if you have participated in helping or campaigning in relation to a particular proposal and either are a Member of Planning Committee, or are then asked to sit on the Planning Committee (as a substitute or you later join the Committee) where that application is due to be considered, then you are likely to be considered as having pre-determined the issue and you should not take part or participate in the debate or vote on that particular item. You may still be entitled to speak as a ward councillor subject to normal speaking arrangements outlined in this Handbook and the conditions specified in Part 5 of the Members Code of Conduct (Page 26 of this Handbook). This would not prevent you from participating in the rest of the meetings business. Further guidance is given in the Planning Code of Conduct, below.

### *Pre-Application*

Both national and local policy encourages applicants intending to submit a major planning application to carry out pre-application consultation. This should be done early enough in the process to allow the results from this initial consultation to influence the design where appropriate.

Applicants are asked to involve Ward Councillors and Parish and Town Councils/ Neighbourhood Forums when undertaking this pre-application consultation. This can include circulation of emerging proposals with an invitation to comment and/or setting up consultation events including drop-in sessions.

The responsibility for this pre-application consultation rests with the applicants, but where appropriate, Council officers will use existing briefing sessions to help in the awareness raising regarding particularly significant proposals (please see Member briefing sessions below).

### *Application Submissions*

New planning applications are published on a 'weekly list' and are also accessible by registering on an email alert service via <http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications>. These provide links to the drawings and other documents submitted with an application. If you have any queries about the submission you are encouraged to speak to the case officer.

### *Application Determination*

Most applications are determined by officers using delegated powers. This enables the Planning Committee to concentrate on the major, significant and controversial applications. If you believe that an application should be determined by the Planning Committee you should contact the case officer or send an email to [planning@solihull.gov.uk](mailto:planning@solihull.gov.uk) setting out planning reason(s) why an application should not be determined under delegated powers. A request to call the application in to Committee should be made before the expiry of the neighbour notification period (or within 5 days following the end of this consultation period if an objection has been lodged against the proposals). This would be appropriate if there are

some particular aspects of the proposals that would benefit from being assessed by the Committee.

Members should avoid 'calling in' planning applications merely because they have been requested to do so by a person making representations or an applicant. Where a Ward Councillor has called an item to Committee for its determination they are expected to register to speak or register to have their comments read out at the meeting. If the member calling in the application also sits on Planning Committee, they are likely to be perceived (at least) to have pre-determined the application. As a result, they will be expected to step down from the debate and determination of that application.

It may be the case the application is already being scheduled to be reported to the Committee as a result of, for instance, the number of representations that have been made. These instances are described in more detail in the section of this handbook that explains the delegation arrangements.

### *Attendance at the Committee Meeting*

If you wish to make representations directly to Members of the Committee, then you can do so by attending and addressing the Committee meeting. Arrangements for attendance at the meeting are explained in detail in the section of this handbook that covers speaking at the Committee.

### *Ward Member Training*

Shortly after the start of each municipal year, a training event and information pack will be provided to Members to help with their planning case work. Additional training for Members of the Planning Committee will be given and this is explained in more detail in a later chapter.

### *Ward Member Briefings*

Strategically important planning applications tend to raise a number of more complex planning issues and are supported by planning pre-application submissions. At an appropriate time early on in the cycle of the planning application, Members of the Planning Committee, Ward Members, Parish and Town Councils and Neighbourhood Forums may be invited to a briefing by the Planning Officer. This will allow a high level understanding of the scheme to be shared whilst ensuring any points of clarification can be raised and considered. Section 7 of the Appendix provides further detail on this point.

## **Planning Committee Site Visits**

During the Covid pandemic the process for undertaking planning related site visits changed. Instead of group visits, members of committee were invited to visit the site at a time more suited to their own individual circumstances and raise questions with officers as appropriate through the committee process. The use of Google Street View, Google Earth and officer photographs were also strengthened and used at Planning Committee to support presentations to members at the committee meeting itself.

Moving forward, all members of committee should therefore ensure they have familiarised themselves with the sites identified on the agenda in advance of the committee meeting. It is

strongly advised that this involves an informal site visit at a time suited to members individual circumstances. A formal site visit by the committee will only take place at the Chairman's discretion. This can be requested by members of the committee either before or during committee meetings, but members should be mindful that such a request made during the meeting will, if accepted lead to a deferral of the decision.

At the Planning Committee, deferring a decision to undertake a site visit adds delay to the process and brings with it the risk of an appeal against non-determination by the applicant. As such, a deferral should only be requested in exceptional circumstances. This should not be undertaken simply as a response to representations being made to the Committee.

Where formal site visits do take place, any contact between Members and applicants or members of the public should be treated with caution so as to avoid lobbying (or the perception of lobbying) and officers should be in attendance at all times. It is appropriate that questions of a factual nature can be asked of applicants or neighbours, but they should not seek to put forward arguments for or against the proposals. Where members undertake informal site visits, they should do so in accordance with the Planning Code of Conduct. Although attendance at formal site visits is not mandatory, members are strongly encouraged to attend whenever possible to ensure that they are familiar with the site characteristics. Attendance at formal site visits will be recorded.

Whilst formal site visits are expected to be limited, when they do take place, they will occur during normal working hours. Political Group Leaders should take into account a Members availability to attend site visits during the working day when proposing who should sit on the Planning Committee.

Officers will continue to use Google Earth, Google Street View and site photographs as part of their presentations to Planning Committee. This will add further context to the understanding of the site, the proposal and the surrounding area.

## Arrangements at Planning Committee

If any member of the Planning Committee is unable to attend a meeting, it is their responsibility to arrange a substitute to attend. Substitutes will require Committee training before they may cast their vote on agenda items (see Member Training).

### *Agenda Order*

The Committee agenda papers are produced to place the most significant or controversial applications at the start of the Agenda papers.

After the Chairman has opened the meeting and confirmed whether there are any substitutes for the meeting, they will ask planning officers to introduce each planning application. It is at the Chairman's discretion to decide the order that the applications are taken which may be different from that set out in the agenda.

A week prior to the meeting the Committee agenda will have been published. Full copies can be found on the Council's web pages at [www.solihull.gov.uk/planningcommittee](http://www.solihull.gov.uk/planningcommittee). On the evening a short update note will also be available setting out any changes (for example further representations or consultation responses) to the reports following the publication of the agenda. The content of this update note will be reported by the Planning officer presenting the relevant application.

The planning officer's presentation to the committee will briefly describe the proposals and highlight the main issues that are the determining factor in relation to each application. Planning Committee Members will have read the reports and the presentation will focus on the key matters relevant to the application and will not refer to every consideration applicable to the application. Extracts from the application showing the proposals will be displayed on screens during these presentations, along with any additional appropriate illustrative material.

At the meeting, Members will use either hard copies of the agenda papers or will access them via laptops or iPads.

After the officer's presentation the Chairman will invite any registered speakers to address the Committee. Registered speakers can appear in person, in extenuating circumstances virtually, or may have their representation read out on their behalf. Full details on how public speaking operates at the Committee are set out in the following chapter.

After public speaking the Chairman will invite Members to discuss and debate the proposals. This will include an opportunity for Members to ask officers for further advice or comment on the issues that may arise from the debate. Sometimes Members are content that all of the issues are clearly set out in the report and, after the recommendation is moved and seconded, no debate or questioning is required and the Chairman may proceed to the vote.

Planning Committee Members will be aware of the sensitivities and the importance that both applicants and objectors place in the planning process. Their debate will focus on land use issues and will avoid repetitious or irrelevant comments.

Voting will usually take place by members raising their hands, the Clerk will then count (a) those in favour of the recommendation, (b) those against the recommendation and (c) those abstaining from voting. In the event of a tied vote, the Chairman has an additional vote known as the casting vote. Only Members who have been present for the whole debate (including officer presentation and public speaking) may vote.

If the Committee wish to make a decision contrary to the recommendation (i.e. to refuse an application that is recommended for approval) or to amend the recommendation (i.e. to add a further condition to one being recommended for approval) a Committee Member will propose an alternative motion. To enable this to be put to the vote it will need to be seconded by another Member. The committee will be expected to state the reason or reasons for refusal and these may get amended following advice from officers. Where a Committee overturn an officer recommendation it will require the sign off by the Chairman and Vice Chairman of the detailed wording of the refusal, or in the case of approval its planning conditions. This final sign off will often take place outside of the meeting.

### *Pre Meeting Briefings*

Prior to the formal meeting of the Planning Committee, Members will be invited, and strongly encouraged to attend a virtual briefing that may cover a range of issues. These are usually held the day before Planning Committee. These will include updates on new legislation or policy changes, training on specific subjects or a factual update on forthcoming applications or emerging proposals. Guidelines on such briefings are in the Local Planning Code of Conduct.

No decisions are made at these sessions, which are for information purposes only.

### *Questions Under Standing Orders*

The Council's constitution allows members of the public to ask questions at meetings of the Council. In so far as these relate to the Planning Committee such questions may only be asked if they do not have any direct relationship to the business being considered at that particular meeting.

## Speaking at Planning Committee

Those wishing to address the Planning Committee shall be invited to speak in the following order and within the time limits as indicated:

Recommended Approval	Recommended Refusal
Objector (3 minutes)	Applicant or supporter (3 minutes)
Parish/Town Council or Neighbourhood Forum (3 minutes)	Objector (3 minutes)
MP (5 minutes)	Parish/Town Council or Neighbourhood Forum (3 minutes)
Ward Member (4 minutes <sup>15</sup> )	MP (5 minutes)
Applicant or supporter (3 minutes)	Ward Member (4 minutes)

### *Principles Regarding Speaking at the Meeting*

It is not necessary that those who have made representations on an application will need to attend and address the meeting. All objections are included in a summary of representations within the planning officer's report and Members have access to individual submissions. Members will therefore be aware of the issues raised in representations.

Speaking at Committee is not intended to be an opportunity to raise new comments, rather it is a chance to set out and highlight the most important considerations that have been included within the representations.

About a week before the meeting, those who have already made representations on the proposals will be written to and given the opportunity to register an interest in speaking.

Requests to register should be sent to [pcspeaking@solihull.gov.uk](mailto:pcspeaking@solihull.gov.uk).

Not all planning applications will be determined by the Planning Committee. These speaking arrangements shall only apply to those applications being reported to the Committee and not those to be determined under delegated powers even if an objection is lodged.

Speaking will only be permitted on planning applications that are being determined by the Planning Committee. Any other items of business<sup>16</sup> will not be open to public speaking but it will still usually be possible for members of the public to attend and observe these proceedings.

In the first instance registration for public speaking may only occur where the speaker wishes to report an alternative view to the officer recommendation. Therefore, where an officer report recommends approval, a Member of the Public or Ward Cllr can register to

<sup>15</sup> At the Chairman's discretion, additional time may be given to Ward Councillors if the proposals are particularly significant and complex.

<sup>16</sup> For instance, enforcement matters, discharge of legal agreements or conditions, amendments to applications, or procedural matters.

Speak in objection. Once registered, the applicant is contacted to invite them to speak in reply and support their proposal. Where an officer recommendation is for refusal, the applicant must register to speak to support their proposal before any other speaking places can be filled by those wishing to object.

Any Ward Councillor that has called in an application for a Committee decision is expected to attend planning committee and address Members of their concerns. Where such Councillors are unable to attend the meeting in person, a written version of their comments will be submitted to the Committee Clerk and read out on their behalf.

The meeting is broadcast using the Council's Public-i webcasting system and can be viewed virtually, either live or via catchup where meetings are available for one year. Where technical issues occur that prevent or limit live streaming the meeting will continue and be recorded. The recording will then be uploaded to the Council's website at the earliest opportunity.

There is the opportunity for speakers to address Members of the Planning Committee virtually, but this can only be accepted in extenuating circumstances, and in such instances a written copy of the speaker's speech MUST be made available to the Committee clerk no later than midday on the day before the meeting. This will ensure that views can be read out to the planning committee if technical problems occur.

### *Members of the Public Objecting*

In the event that more than one request is made, then those who have registered to speak will be invited to see if an agreement can be reached that a spokesperson speaks on behalf of all objectors or that the 3 minutes is split between 2 or more speakers. In the event that no agreement can be reached then the Chairman will use his discretion to nominate one speaker based on the following criteria:

- The proximity of the intended speaker's home address to the application site.

Requests to attend and address the Committee meeting should be made by 12:00 midday on the day before the meeting.

### *Parish and Town Councils and Neighbourhood Forums*

A Parish/Town Councillor or Neighbourhood Forum member (or other representative as may be nominated by them) may attend and address the committee on behalf of the Parish/Town Council or Forum. It will be expected that the speaker will make representations duly authorised by the Parish/Town Council / Neighbourhood Forum either at a relevant meeting or through powers that may be delegated to an appropriate spokesperson. It will be expected that in the event that such a meeting has not already authorised comments then a future meeting will be provided with an update. This is to ensure that comments are made on behalf of the Parish/Town Council / Neighbourhood Forum.

## *Ward Councillors and MPs*

To ensure that meetings run efficiently, and to avoid unnecessary duplication, only one Councillor per ward, per view (i.e. support or object) will be allowed to address the meeting.

Members will need to register their interest in speaking at the meeting by 12:00 noon<sup>17</sup> on the day prior to the meeting (unless otherwise stated in the public speaking letter). When registering to speak Members will be asked to declare whether they either (a) support the proposals or (b) object to the proposals (or otherwise have concerns or reservations about them). This will enable the applicant or supporter the opportunity to respond to a Member speaking against the proposals.

At the time of registering their interest to speak, Members should also indicate if they wish to request longer than 4 minutes if they believe the proposals are particularly significant and complex.

Requests to register should be sent to [pcspeaking@solihull.gov.uk](mailto:pcspeaking@solihull.gov.uk). Members should state whether they will be speaking in support or objection to the proposal, whether they will appear in person, virtually or wish to have their material read out.

Where more than one ward member request is made the speaker will be allocated based on who has submitted the earliest request or an agreement reached between the ward members. An allowance for more than one ward member to address committee will be at the Chairs discretion.

## *Applicants or Supporters*

Applicants will only be allowed to speak in response to an objector (or a Ward Councillor or MP), if they have declared that they object to the proposals or if the proposals are being recommended for refusal.

An applicant or supporter will still be permitted to speak if an objector who had previously registered their intention to speak at Committee does not subsequently attend.

## *Material Submitted at the Meeting*

No written material shall be handed out at the meeting, but should speakers wish to display a small number of images or an annotated plan then this will be possible provided that it is supplied to the Council by 4:00 pm on the day before the meeting. Such images should be supplied in electronic form via an attachment to an email sent to [pcspeaking@solihull.gov.uk](mailto:pcspeaking@solihull.gov.uk) clearly marked that they are intended for the Planning Committee and the application number they relate to. Please note, images containing vehicles where car registration numbers are clearly visible must have their number plates redacted to ensure data protection laws are met; otherwise, the images cannot be accepted. Any image including clear images of people who could reasonably be identified as a result of the image being shared should also confirm their consent to be included as part of the presentation. This will

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<sup>17</sup> Unless exceptional circumstances prevent this and then with the agreement of the Chairman

be the responsibility of the presenter to confirm. All images will also be checked by council officers to ensure they do not contain any defamatory or inappropriate material.

### *Amendments to Normal Speaking Arrangements*

The normal speaking arrangements outlined above will be varied at the discretion of the Chairman in cases which relate to particularly significant and complex applications. This will always be the case in relation to single item Committee meetings (i.e. when an ad hoc meeting of the Committee has been called to determine a single application) and only exceptionally in other cases.

## Planning Code of Conduct

This Council has introduced a local planning code of conduct which is intended for:

- Planning Committee members (and will be applicable to those acting as substitutes)
- Other members where they engage in the planning process, and
- Officers.

It has been produced to ensure that in exercising the planning function on behalf of the Council, there are no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

It has been produced in the context of the Local Government Association's publication "Probity in Planning for Councillors and Officers" (April 2013). The code is published as an appendix to this handbook.

## Member Training

Planning legislation and policy is subject to frequent change and it is important that Members keep up to date on relevant matters. In addition, those joining the Planning Committee will need to have an understanding of their role and the basis upon which decisions should be made.

Shortly after the start of each new municipal year, a formal training session will be organised this will be suitable to both new Planning Committee members any members who often act as substitutes and as a refresher for existing members. Attendance at this session will be mandatory for Planning Committee members and those who may be asked to substitute for a permanent member. If a Member has not attended these sessions, and alternative arrangements have not been made, then they shall not be able to join the Planning Committee either as a permanent member or as a substitute. All current Members of the Planning Committee and their substitutes must attend this training session annually.

In addition to these formal sessions there will also be informal briefings on particular topics or policy/legislative changes which will usually take place four times a year. Attendance to these sessions is strongly encouraged. Members are urged to identify topic areas they would

like to receive briefings upon. A timetable for training sessions will be agreed by the Head of Planning, Design and Engagement with the Chair at the start of the municipal year.

## What if things go wrong?

Planning applications can be controversial and there can be a disappointed party, typically an applicant or an objector. Planning decisions are often a matter of judgement following the balancing of relevant considerations. Just because a decision may not have gone the way that was hoped does not mean to say that all relevant views were not taken into account, or the decision was flawed. However, there may be times when something has gone wrong and this section sets out how these circumstances will be investigated.

### *Council's Corporate Complaint Procedure*

Details of the Council's Corporate Complaints Procedure can be found at <http://www.solihull.gov.uk/About-the-Council/Complaints/councilcomplaints>. This enables someone who is dissatisfied with the service to raise the matter with the Council. It is a two-stage process that is initially considered by a member of staff from the service area in question.

If the complaint cannot be resolved, then the complainant will be asked to give reasons why they remain unhappy and what they would like to happen. This will then be escalated to stage two which will be conducted by a Head of Service. He or she will check that the Council have done everything it can to try and resolve the problem, and a review of the complaint will also take place. Sometimes trying to resolve a complaint when permission has already been issued can be difficult as it is not possible to withdraw consent. However, Council officers will do their best to try and resolve a problem if something has gone wrong.

Whilst this procedure can be used to raise dissatisfaction with the service, it cannot be used to overturn a decision made by the Planning Committee or by an officer using delegated powers.

A complaint can be raised on line (following the link given above), via email to [connectcc@solihull.gov.uk](mailto:connectcc@solihull.gov.uk), by telephoning (0121) 704 8005 or by writing to the Corporate Complaints Team, The Bluebell Centre, West Mall, Chelmsley Wood, B37 5TN.

### *Ombudsman*

If a complainant remains unhappy with the result of a stage two review they can contact the Local Government Ombudsman who will give them independent advice on the complaint. Details can be found on their web site at <http://www.lgo.org.uk> (which also includes an online report form). They can also be contacted by telephone on 0300 061 0614 or by post at PO Box 4771, Coventry, CV4 0EH.

### *Judicial Review*

If an aggrieved party believes a decision, is unlawful, irrational or procedurally improper then they should seek independent legal advice about a judicial review as this would be the only way such decisions could be quashed. This will involve issuing High Court proceedings, and there are the usual risks of litigation. It is important that such claims are lodged promptly with the Courts, typically within 6 weeks of the date the decision was made. The Court may only

overturn a decision if it finds it is unlawful, irrational or procedurally improper, but has discretion not to do so. The Courts are not required to quash a decision simply because the planning balance could have resulted in a different outcome.

# Further information

Further information about planning matters can be found at the following web sites.

## *Solihull MBC*

General planning pages: <http://www.solihull.gov.uk/planningservices>

Planning application details:

<http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications>

Solihull Local Plan: <http://www.solihull.gov.uk/ldf>

Solihull Local Plan Review: [Solihull Local Plan Review](#)

Planning Committee agendas: [www.solihull.gov.uk/planningcommittee](http://www.solihull.gov.uk/planningcommittee)

Members Code: [Solihull MBC Constitution and code of conduct](#)

## *Planning Portal*

The Planning Portal provides a general guide to planning including interactive guides to permitted development, online submissions and policy information.

[www.planningportal.gov.uk](http://www.planningportal.gov.uk)

## *Department for Levelling Up, Housing and Communities*

National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG): <http://planningguidance.planningportal.gov.uk/>

DLUHC Home Page: [Department for Levelling Up, Housing and Communities - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

## *Planning Inspectorate*

Planning Inspectorate Home Page:

<https://www.gov.uk/government/organisations/planning-inspectorate>

### *Royal Town Planning Institute*

Home page: <http://www.rtpi.org.uk/>

Planning Aid: <http://www.rtpi.org.uk/planning-aid/>

### *Local Government Association*

“Probity in Planning for Councillors and Officers” (December 2019) -

[Housing, planning and homelessness | Local Government Association](#)

## Contact information

If you wish to contact the Council about any planning issues, please use the details set out below.

Post:

Development Management Economy and Infrastructure Directorate

Solihull MBC PO Box 11652

Solihull B91 9YA

Email: [planning@solihull.gov.uk](mailto:planning@solihull.gov.uk)

Telephone:

(0121) 704 8008

# APPENDIX

## Members' Planning Code of Conduct

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### 1 Background

Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.

The planning system works best when officers and members involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.

Planning decisions involve balancing many competing interests. In doing this, members need an ethos of decision-making in the wider public interest on what can be controversial proposals.

### 2 Introduction

In 1997, the Third Report of the Committee on Standards in Public Life (known as the Nolan Report) resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. In today's place-shaping context, early Member engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need.

This guidance is intended to reinforce Member's community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges. It reflects changes introduced by the Localism Act 2011, and the Council's own Code of Conduct; it is based on the Local Government Associations Probity in Planning Guide 2019<sup>18</sup>. The aim of this Code is also to ensure that in the planning process there are no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper. Failure to comply with the code may leave the Council at risk of proceedings on the legality or maladministration of the related decision; it may also leave a Member at risk of a Complaint to the Monitoring Officer.

Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.

Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal

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<sup>18</sup> [Probity in planning: Advice for councillors and officers making planning decisions | Local Government Association](#)

nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.

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 the quality of their settings. Opposing views are often strongly held by those involved.

Whilst Members must take account of these views, they should not favour any person, company or group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.

The guidance refers mainly to the actions of a local authority Planning Committee as the principal decision-making forum on planning matters.

However, it applies equally to all Members where they engage in the planning process including adopting local plans and other policy documents, planning enforcement cases or the making of compulsory purchase orders, at meetings with Officers or at public and consultative meetings and also applies to Officers of the Council.

If a Member has any doubts about the application of this Code to their own circumstances they should seek advice early, from the Monitoring Officer, preferably well before any meeting takes place.

### **3 The General Role and Conduct of Members and Officers**

Members and Officers have different but complementary roles. Both serve the public but Members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members. A successful relationship between Members and Officers will be based upon mutual trust, understanding and respect for each other's positions.

Both Members and Officers are guided by codes of conduct. The 2011 Act sets out a duty for each local authority to promote and maintain high standards of conduct by Members and to adopt a local code of conduct. The Council has adopted its own code, which must be complied with and to which this planning code is complementary.

Staff who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. The Council also has a Code of conduct for employees, and the provisions in this employee code are incorporated into the contracts of employment of employees.

In addition to these codes the Council's standing orders and scheme of delegation set down rules which govern the conduct of Council business.

Planning Officers and serving Members of the Planning Committee must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.

The Localism Act seeks to separate interests arising from the personal and private interests of a Member from those arising from the Member's wider public life. Members should think about how a reasonable member of the public, with full knowledge of the relevant facts, would view the matter when considering whether the Members' involvement would be appropriate.

## 4 Decision Making and Declaring Interests

The Council's code of conduct requires that disclosable pecuniary interests should be disclosed in accordance with the 2011 Act and regulations; such interests are kept on the register maintained by the Monitoring officer and made available to the Public. Members should also disclose such pecuniary interests orally at Planning Committee or other meetings, when they relate to an item under discussion.

If a Member has a disclosable and/or pecuniary interest in an item under discussion they should withdraw from the committee room, and take no part the decision unless they have first obtained a dispensation from the Council's Governance Committee.

If a Member has a non-pecuniary interest in an item under discussion and the interest is such that it may, or could, affect the Member's decision on the item in the public interest (or could be seen to do so), under the Council's code of conduct the Member should declare that they have a conflict of interest and the nature of the interest. The Member can then speak on that particular item (in the same way as Members of the public have a right to speak). However, they should then leave the room and take no part in the determination of the matter.

It is always best to identify a potential interest early on. If a Member thinks that they may have an interest in a particular matter they should seek advice from the Monitoring Officer as soon as possible. So:

- Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Disclose your interest and the nature of the interest at the commencement of discussion on that particular matter.
- Do then act accordingly.

So, where you have a pecuniary interest or conflict of interest:

- Don't influence or participate, (or give the appearance of trying to influence or participate), in the making of any decision on the matter by the planning authority. You must leave the room.
- Don't try to represent ward views, get another Ward Member to do so instead. If you do not have an interest and feel strongly about the application you would be free to lobby for or against the proposed development and to address the Committee but you would have fettered your discretion (see below) and so could not take part in the

determination of the application (or in that part of the meeting at which it is determined). You must leave the room.

- Don't get involved in the processing of the application.
- Don't 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 Member. This would include 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 to an appropriate Officer, in person or in writing, the existence of an interest under the Code places greater limitations on you in making representations to the Committee. If you have a disclosable pecuniary interest or conflict of interest which relates to an item at the Planning Committee you cannot participate in the discussion, take part in any vote, or remain in the room when the matter is considered.
- Do notify the Monitoring Officer in writing of your own application or one which involves or is made by your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you are civil partners; such applications will usually also constitute disclosable pecuniary interests; please also note:
  - notification to the Monitoring Officer should be made no later than submission of the application; such proposals and proposals by Senior Officer or a Planning officer will be reported to the Committee in accordance with Part 1(k) of the scheme of delegation outlined in this Handbook.
  - 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.

## 5 Predisposition, Predetermination, or Bias

Members of a Planning Committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies. This is known as fettering their discretion in the Planning process.

The courts have sought to distinguish between situations which involve predetermination or bias on the one hand – which is not acceptable- and predisposition on the other.

Predetermination is where a Member has, or appears to have a 'closed mind', and is likely to leave the committee's decision susceptible to a legal challenge, or to an ombudsman complaint; this could be demonstrated by clearly expressing an intention to vote in a particularly way before a meeting.

This is different from where a Member expresses an initial view but makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition).

Section 25 of the 2011 Act provides that a Member should not be regarded as having a closed mind simply because they previously did or said something, that directly or indirectly, indicated what view they might take in relation to any particular matter.

So, a Member may be predisposed on a matter before it comes to the Committee, provided they remain open to listening to all the arguments and changing their mind in light of all of the information presented at the meeting. Nevertheless a Member in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Member had made up their mind and was not open to reconsider their view.

For example, a Member who states 'Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the Committee' will be perceived very differently from the Member who states: 'Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area'.

If a Member has predetermined their position, they should withdraw from being a Member of the decision-making body for that matter. They should not participate and leave the room.

This would apply to any Member of the Planning Committee who wanted to speak for or against a proposal as a campaigner (for example on a proposal within their ward)

The Executive Member responsible for development and planning is able to be a Member of the Planning Committee. Leading Members of the Council who have participated in the development of planning policies and proposals, usually need not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.

So;

- Don't fetter your discretion and therefore your ability to participate in planning decision-making 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 and of your hearing the Officer's presentation and evidence and arguments on both sides.
- 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 in specific instances you do not have a disclosable pecuniary interest or conflict of interest in certain matters, you must exercise your discretion in deciding whether or not to participate in each case and where for instance:
  - 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; or you are a trustee or company director of the body submitting the proposal and were appointed by the Council; then you should always disclose a conflict of interest.

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- Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish/Town Council, for example), provided:
    - the proposal does not substantially affect 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;
      - 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 Committee comes to consider the proposal.
  - Don't speak and vote on a proposal where you have fettered your discretion. In such circumstances you will be expected to leave the room.
  - Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes and leave the room.
  - Only exercise your separate speaking rights to address the Committee as a Ward Member where you are unable to find another Ward Member to speak on behalf of residents. Where you do exercise speaking rights you have fettered your discretion to act as a member of the Committee and you must advise the Chairman of the meeting that you wish to address the meeting in the capacity as a ward member and you must not remain sitting with the Committee whilst the item you are speaking to is being considered. In these circumstances you should ensure that your actions are recorded in the minutes and that you do not give the public the impression that you have any part in the decision being taken. You must leave the room after exercising your rights to speak.

## 6 Contact with Applicants, Developers and Objectors

Often applicants, developers and objectors may want to discuss a proposed development with a Member, before a planning application is determined. This can be a form of lobbying and is likely to represent an incomplete picture of the relevant considerations governing a planning matter.

Members should follow the guidelines on lobbying in this code, and also;

- Do refer those who approach you for planning, procedural or technical advice to officers.
- Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. 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, Design and Engagement to organise it. The Officer 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 otherwise:
  - o follow the rules on lobbying;
  - o consider whether or not it would be prudent in the circumstances to make notes when contacted; and report to the Head of Planning, Design and Engagement 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.

## 7 Early Member Engagement - Briefings

The Localism Act, and the LGA Probity in Planning guide both endorse that through early involvement in the planning process, Members have an important role to play. Involving Members can ensure their local knowledge and expertise helps identify issues early on; helps Members lead on community issues; and helps to make sure that issues do not come to light for the first time at Planning Committee. However, to ensure that such Member involvement does not give rise to a perception that Members have fettered their discretion, when the Council offers briefings, presentations and updates to Members it will ensure these briefings have the following objectives:

- To raise Members awareness of major projects at an early stage in the planning process.
- To make Members aware of the key issues that will require consideration.

- To provide Members with the factual information they may need to answer questions from the public.
- To give Members an opportunity to ask questions and identify issues they would like covered in a committee report at any early stage of the process.

Cabinet Members and Ward Members may also be offered briefings, and Planning Committee may be briefed in sessions outside the formal Planning Committee meeting based on information which is in the public domain.

The purpose of these briefings is to enable Members to be presented with factual information about proposals and the likely key considerations. They are not an opportunity to discuss the merits of the proposals.

In addition in respect of presentations by applicants/developers:

- Don't attend a planning presentation which is not also open to the public unless an officer is present and/or it has been organised by Officers.
- 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, as 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 or state how you or other Members might vote.

## 8 Lobbying of Councillors

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or emerging policy, will often seek to influence it through an approach to their Ward Member or to a member of the Planning Committee.

Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved.

Although predisposition is permissible, it nevertheless remains good practice that when being lobbied, Members (and members of the Planning Committee in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, however, Councillors can safely restrict themselves to giving advice about the process and what can and can't be taken into account.

Councillors can also raise issues which have been raised by their constituents, with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.

If any Member, whether or not a Committee Member, speaks as an advocate on behalf of a lobby group at Planning Committee they should declare a conflict of interest and withdraw once any public or Ward Member speaking opportunities had been completed in order to counter any suggestion that Members of the Committee may have been influenced by their continuing presence.

It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor.

Planning Committee Members should in general avoid organising support for or against a planning application and avoid lobbying other Members of the Planning Committee.

- Members should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officer's impartiality or professional integrity.
- Call-in procedures, whereby Members can require a proposal that would normally be determined under the delegated authority to be called in for determination by the Planning Committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern.
- Do explain at the outset 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; or to express 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 act in a transparent and fair basis 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 copy or pass on any lobbying correspondence you receive to the Head of Planning, Design and Engagement at the earliest opportunity.
- Do promptly refer to the Head of Planning, Design and Engagement 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.
- Do note that, unless you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - o listening or receiving viewpoints from residents or other interested parties;

- o 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;
- o seeking information through appropriate channels; or
- o forwarding on correspondence from constituents to officers (acting as a Ward Member) in relation to an application, so long as no specific view is provided in doing so.

## 9 Lobbying by Councillors

- Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose particular planning proposals. If you do, you will have fettered your discretion and are likely to have a conflict of interest and have to withdraw.
- Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association; however, you should make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- Don't excessively lobby fellow Members 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.
- Don't 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. Use of a political whip in planning matters is deemed maladministration by the Local Government Ombudsman, and could also lead to a legal challenge to any planning decision.

## 10 Site Visits

Site visits are for observing the site and gaining a better understanding of the issues where visits take place. Officers will have already visited the site and assessed the application against policies and material considerations before completing the committee report and making their recommendation. Site visits by Planning Committee are not mandatory but members are strongly encouraged to visit sites in advance of the meeting and familiarise themselves with it. Formal visits made by committee should only take place at the Chairman's discretion. Formal visits can be requested by members of the committee either before or during committee meetings, but members should be mindful that such a request made during the meeting will, if accepted lead to a deferral of the decision. Members should also be mindful that any deferral at Planning Committee for reason of a site visit will bring about a risk of appeal through non-determination by the applicant.

- Do try to attend formal site visits organised by the Council.
- Don't request a site visit unless you feel it is strictly necessary because:

- o particular site factors are significant in terms of the weight attached to them
  - o relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - o there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- Do ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.
  - Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
  - Do ask any officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
  - Don't hear representations from any other party at the site visit. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
  - Don't express opinions or views to anyone.
  - Don't enter a site which is subject to a proposal other than as part of a site visit intended to support your decision making at committee, even in response to an invitation, as this may give the impression of bias.

When visiting a site, you **MUST** comply with these good practice rules on site visits.

## 11 Members and Officers

- Don't put pressure on Members or Officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Head of Planning, Design and Engagement , which may be incorporated into any committee report.
- Do recognise that Officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level (this includes all named case officers).
- 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.

## 12 Decision Making at Planning Committee

Whilst the determination of a planning application is not a 'quasi-judicial' process Planning Committee adopts quasi-judicial principles in its proceedings, and so Members must not only act fairly but be seen to act fairly and in accordance with the Council's rules and protocols. Failure to do so will leave the Council vulnerable to a legal challenge and/or a complaint to the Ombudsman on grounds of maladministration. So,

- Other than with permission of the Chairman don't 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.
- Do ensure that you comply with the Council's procedures in respect of public speaking.
- Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your request is made recorded and repeated in the report to the Committee, and you have good planning grounds to do so.
- Don't call in a matter to Planning Committee if you have an interest in it.
- Do come to meetings with an open mind and demonstrate that you are open-minded.
- Do seek clarification on a point of detail before the meeting rather than waiting until the meeting commences.
- Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70 of the Town and Country Planning Act make decisions in accordance with the Development Plan unless material considerations (which specifically include the NPPF) indicate otherwise.
- 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 determination of the application or refuse planning permission but only if you have good planning grounds to do so.
- Don't 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.
- Do have recorded the reasons for Committee's decision to defer any proposal.
- Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.
- Don't use social media or mobile phones during meetings as this could give rise to the impression that you are not concentrating on the matter in hand and/or are open to influence by those who may seek to lobby during the meeting.

- Don't feel that you have to contribute to the debate on each and every item, particularly if similar comments have already been made by another member.
- Do avoid repetitious or irrelevant comments and ensure that comments are made on land use planning grounds only.
- Do avoid making requests for subsequent matters (e.g., discharge of conditions) to be reported to a future meeting of the Committee unless absolutely necessary.
- If a final decision cannot be made at the Committee as a minor change, update, or further information is expected or awaited, but you are satisfied with the planning balance and that you have sufficient information to be content with the principle of the development, then do allow the matter to be delegated to the Head of Planning, Design and Engagement to make the final determination (either with or without consultation with the Chairman and/or Vice Chairman).
- Members of Planning Committee must take part in the mandatory training sessions which are organised or approved by the Council and take place at least once a year; Councillors who attend Planning Committee as a substitute, are also required to attend training before they first sit on a Planning Committee. If a Member takes part in a planning decision without adequate training this could render the Council vulnerable to a claim for maladministration.
- Planning Committee members should also endeavour to attend any other specialised training sessions provided by the Council; such training sessions are designed to extend members knowledge of planning law, regulations, procedures, Codes of Practice and Planning Policy, and assist them in carrying out their role properly and effectively. The Council also offers training to Ward Members for these reasons.

## 13 Gifts and Hospitality

Members and officers should be cautious about accepting gifts and hospitality which is offered to them from anyone with an interest in a Planning matter in their capacity or connected to their official duties as a member (other than minor refreshments) and should exercise their discretion. Any Member receiving any such offers over and above an agreed nominal value should let the Council's Monitoring Officer know, in writing, and seek advice as to whether they should be accepted or declined. Officers who are offered gifts and hospitality should refer to the guidelines in the Employee Code of Conduct.