

**CABINET
27TH OCTOBER 2005**

OFFICERS' PLANNING CODE OF GOOD PRACTICE

INTRODUCTION

The principal purpose of the Planning System is to control development and allocate land in the 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. This process relies on informed judgement within a firm National, Regional and Local policy context. It can be highly contentious because its decisions affect the daily lives of everyone and the private and business interests of individuals, landowners and developers.

It is essential therefore that the process is underpinned by open and transparent decision making and that those Officers and Members making planning decisions affecting these interests do so openly, impartially and by exercising sound judgement and with reasons which can be justified. The planning process should leave no grounds for suggestion that a decision has been partial, biased or ill-founded in anyway.

The Council has already adopted a Members' Planning Code of Good Practice which superseded the previous Code of Practice for Handling Planning and Related Matters which was originally adopted by the Council in March 1998. A Members' Planning Code of Good Practice sets out the role expected of Members in the Planning process. The Officers' Code of Practice is intended to sit alongside the Members' Code but is particularly related to the role of Officers in the Planning process.

This Code applies to Planning and other Officers at all times when they are involved in the Planning process including pre-application, the determination of applications, the enforcement of breaches of planning control and the allocation of land uses through the Local Development Framework and is applicable to both formal and informal meetings. Failure to act in accordance with the Code of Conduct without good reason could be taken into account in investigations by the Ombudsman into possible maladministration or in the course of more serious allegations in respect of Officer conduct. Planning Officers employed by Wyre Forest District Council will be required to confirm that they have read and understood the Code of Practice and to indicate that they are willing to implement its provisions in the course of their duties.

THE ROLE OF OFFICERS

Officers are paid employees of the Council and have the principal responsibility for discharging Council's policy. Officers will provide impartial and professional advice to all Members to assist them in reaching their

decisions and to the public, agents, landowners and developers on all planning matters to enable them to engage with the Planning process as fully and effectively as possible. All advice given will take account of national legislation and guidance, regional policies and local policies and practice to ensure that the planning system remains fair and transparent whatever the outcome.

Through its Scheme of Delegation which is set out in the Council's Constitution, the Council has given delegated authority to the Head of Planning, Health and Environment to determine a range of planning applications which accord with the Scheme of Delegation. All other applications which fall without the Scheme of Delegation will be determined by the Planning (Development Control) Committee at which officers will present and explain recommendations on applications and answer questions of Members of that Committee in order to assist them in making a decision upon the application. The Development Control Manager or his/her representative will present detailed and structured reports with written recommendations together with an oral report as required by the Chairman of the Planning (Development Control) Committee on the more complex or controversial applications to assist in the proper debate upon applications. All reports will provide a clear technical appraisal of the case including site location and description, planning history, consultations received, the policy context for the recommendation, the reasons for the decision whether it be an approval or refusal and any suggested conditions.

One of the Council's Solicitors will attend all Planning (Development Control) Committee meetings and will provide legal advice as required.

The Council allows public speaking by objectors and applicants and the Planning (Development Control) Committee in accordance with the procedure adopted by the Council which can be found in Development Control Practice Note 13.

The Council does allow representatives of Parish Councils to speak at the Planning (Development Control) Committee in accordance with the protocol on Parish Representations at Planning (Development Control) Committee (Development Control Practice Note 10).

COMMITTEE DECISIONS CONTRARY TO OFFICER RECOMMENDATION

The Town and Country Planning Act 1990 (as amended) requires that where the Development Plan is relevant (i.e. the West Midlands Regional Spatial Strategy and Wyre Forest District Local Plan and any adopted Supplementary Planning Guidance/Documents) decisions on a planning application should be taken in accordance with the Development Plan unless material considerations indicate otherwise.

The Planning (Development Control) Committee are entitled to reach decisions different from those recommended to them by officers by attaching different weights to the various relevant planning considerations. This

happens from time to time and when it does it is essential that applicants and members of the public are left in no doubt as to how the decision was reached.

Any application which the Planning (Development Control) Committee are minded to approve which would represent a departure from the Local Plan, whether or not this is the recommendation of officers, will be dealt with in accordance with the Council's adopted Development Control Practice Note 8 "Dealing with Departure Applications". It will be the role of officers to advise Members of the Planning (Development Control) Committee of the proposed consequences of the Council approving the Planning Application as a Departure from the Local Plan and whether or not it will be necessary to refer the application to the Secretary of State through the Government Office for the West Midlands before a decision may be made.

In cases where the Planning (Development Control) Committee are minded to agree a decision on an application which is contrary to the Officer Recommendation, in the case of a refusal officers will request full and complete planning reasons why the application is being refused; and in the case of approvals full and complete conditions to be requested together with full and complete reasons why the permission is being granted.

If an imminent decision of the Planning (Development Control) Committee is thought to be perverse, the Development Control Manager (or his/her representative) and/or the Council's Solicitor should so advise the Committee and ultimately it will be for the Chairman of the Planning (Development Control) Committee to decide whether or not it will be preferable to defer consideration to allow for a period of reflection on the advice given by officers before proceeding.

If the Planning (Development Control) Committee resolve to refuse planning permission contrary to officers advice which subsequently results in the applicant appealing against the decision and which in the opinion of the Head of Planning, Health and Environment in consultation with the Head of Financial Services could result in an award of costs against the Council a further report may be made to the Planning (Development Control) Committee in accordance with the Council's protocol for Awards of Costs in Planning Appeals.

All planning approvals and refusals shall be fully minuted and shall accord with the decision taken by the Planning (Development Control) Committee subject to the incorporation of any further conditions or reasons (or variations) considered necessary by the Development Control Manager to give full effect to the Authority's wishes regarding the outcome of any particular application.

Any application deferred from the Planning (Development Control) Committee for a site visit will be dealt with in accordance with the Council's adopted protocol for Planning (DC) Committee Site Visits (Practice Note 12).

PRE-APPLICATION DISCUSSIONS

The Council recognises that pre-application discussions can be of significant benefit to both the potential applicant and the Council. Officers will therefore engage in pre-application discussions advising of the Council's relevant policies and practices and the National and Regional Policy and Guidance position. However, in offering such pre-application advice officers will make it clear that any views expressed are made in their professional capacity and will not be binding on the Council in making its final decision. Officers will conduct pre-application meetings and discussions in accordance with the Development Control Practice Note 2 "Officer Site Visits Common Meetings and Good Housekeeping" and Development Control Practice Note 15 "The Development Team Approach for Major Applications".

DECLARATION AND REGISTRATION OF INTERESTS

It is a fundamental principle that those having a significant interest in the outcome of a particular planning application, enforcement matter or designation of land through the Local Development Framework should not make decisions in relation to that application or designation. This applies equally to officers as it does to Members.

Any Planning Officer who has a private or personal interest in any planning matter they are asked to deal with whether this be financial or personal knowledge of the applicant or objectors such that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the officer's decision or recommendation such that it may have been influenced by improper motives, must declare their interest in the Register of Declarations which is maintained by the Head of Planning, Health and Environment.

For the avoidance of doubt it should be noted that this does not preclude normal discussions with applicants or objectors which arise solely from the processing of a planning application or the implementation of the Local Development Framework where an officer should be professionally impartial.

DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS, AND COUNCIL DEVELOPMENT

Proposals submitted to the Council by serving Councillors and Officers, and their close friends and relatives and those applications submitted by other Council Divisions can easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted, however, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

Any planning application submitted by an existing serving Officer of the Council or existing serving Member of the Council or their immediate family shall be reported to the Council's Planning (Development Control) Committee for determination. Officers submitting applications shall take no part in their

determination nor seek to influence the views of the Case Officer allocated to deal with the application. Similarly, serving Councillors should also not seek to influence the views of the Case Officer determining their application. If any such impropriety is detected the Case Officer shall at once inform the Council's Monitoring Officer and the Head of Planning, Health and Environment.

Proposals arising from the Council's own Divisions can take the form of either Planning Applications or proposals affecting the Local Development Framework. It is important to ensure the transparency of the Planning Process and that such applications or proposals are treated in the same way as those by private developers. All the planning applications and Local Development Framework representations will be reported to and determined by the Council's Planning (Development Control) Committee or Cabinet. Any planning applications submitted by Worcestershire County Council shall be determined in accordance with the Council's adopted Scheme of Delegation.

DEALING WITH APPLICATIONS SUBMITTED BY EX-MEMBERS AND RETIRED OFFICERS

Concerns may also be raised from time to time regarding the handling of planning applications or other representations submitted by or on behalf of ex-Councillors and retired officers from the Council who often may be acting as Planning Consultants/Agents. All such applications and comments received will be treated no differently than any other Planning Application or Local Development Framework matter and will be dealt with impartially and objectively by officers under the Council's Scheme of Delegation or reported to the Planning (Development Control) Committee or Cabinet as appropriate.

GIFTS AND HOSPITALITY

During the course of carrying out their duties from time to time officers may be offered hospitality or other gifts from people with an interest in the planning proposal. In all cases such offers should be politely declined and an explanation given accordingly. If receipt of a gift or hospitality is unavoidable for example if it is unwittingly received and cannot be returned, it shall be declared to the Head of Planning, Health and Environment who will determine what action is required.

COMPLAINTS AND RECORD KEEPING

The Council operates a formal Corporate Complaints Procedure which applies to all Council functions including planning related complaints. Any complaints submitted regarding the conduct of an officer will, in the first instance, be considered under this formal complaints procedure. Depending on the severity of the complaint the Council may need to consider proceeding under its Disciplinary route.

In order that complaints may be fully investigated and in any case as a matter of good practice, record keeping should be complete and accurate in

compliance with Development Control Practice Note 2 “Officer Site Visits, Meetings and Good Housekeeping”.

OFFICERS PROFESSIONAL OBLIGATIONS

Many Planning Officers are Chartered Town Planners and Members of the Royal Town Planning Institute and as such are bound by the Code of Professional Conduct of the Institute which imposes certain professional obligations including conflicts of interest and continuing training. Breaches of that Code may be subject to disciplinary action by the RTPI.

CURRENT PROCEDURAL INFORMATION GUIDING THE PLANNING FUNCTION

No.	DESCRIPTION	DATE ADOPTED
1.	Public Access to Planning files and Information	March 2002
2.	Officer Site Visits, Meetings and Good Housekeeping	March 2002
3.	Publicity and Consultation on Planning Application and Amendments	March 2002
4.	The Registration and Validation of Planning Applications	January 2002
5.	Dealing with Trees and Hedgerows	January 2002
6.	Charging for Planning Advice and Enquiries	March 2002
7.	Dealing with Pre-Application Enquiries	March 2002
8.	Dealing with Departure Applications	January 2002
9.	Dealing with Planning Obligations	March 2001
10.	Protocol on Parish Representations at Planning (Development Control) Committee	June 2001
11.	The Provision of Affordable Housing – A Guide for Officers and Developers	June 2002
12.	Protocol for Planning (Development Control) Committee Site Visits	October 2002
13.	Public Speaking at Planning (Development Control) Committee	June 2003
14.	Protocol on Consideration of Delegated Planning Applications by Ward Members	June 2003
15.	The Development Team Approach for Major Applications	January 2004
16.	High Hedges	May 2005

OTHER GUIDANCE

- ◆ Awards of Costs in Planning appeals – a joint statement by the Head of Financial Services, Head of Legal and Democratic Services and Planning, Health and Environment updated 2004
- ◆ Development Control Charter – last updated April 2001

- ◆ A Guide to the Planning Process for Parish Councils – last updated ?
- ◆ Proactive Enforcement Policy – last updated 2001
- ◆ An Introduction to Freedom of Information (Guidance for Members and Employees – December 2004
- ◆ Scheme of Delegation to Officers Planning (Development Control) Committee and Planning (Enforcement) Committee – last updated ?