

CODE OF CONDUCT FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

1. Purpose of the Code

1.1 This Code of Conduct has been adopted by the Council to regulate the performance of its planning function.

The Code has the following objectives:

- (i) To guide Members and officers in dealing with planning related matters.
- (ii) To inform potential developers and members of the public generally, of the standards adopted by the Council in the performance of its planning function.

1.2 This Code of Conduct relating to Planning Matters is intended to be supplementary to the National Code of Local Government Conduct prepared by the Secretary of State under provision of the Local Government and Housing Act 1989. The provisions of the National Code continue to have full force and effect. The purpose of this Code is to provide more detailed guidance on the standards to be applied in relation to planning related issues.

1.3 Planning law requires Members of local planning authorities to determine all planning applications in accordance with the approved development plan unless material considerations indicate otherwise. This responsibility must be performed without undue influence or personal interest.

1.4 Members of local planning authorities also have a duty to take into account any representations made to the Council as a result of consultation with interested bodies or as a result of public notices or neighbour notification. In doing so it is necessary to decide which representations are material to the decision to be made, and if so, what weight to attach to them. This conclusion should not be reached until all the facts have been presented in the Director of Regeneration, Housing & Planning's report and considered at Planning Committee.

1.5 It is essential that Members of the Planning Committee do not give any commitment or impression of a commitment to any planning related matter prior to its consideration at Planning Committee.

1.6 It is recognised that Members will, from time to time, be approached by developers and objectors in relation to planning proposals.

- 1.7 Part of this Code is intended to assist Members in dealing with and recording such approaches and is designed to ensure that the integrity of the decision making process is preserved.

2. Lobbying

- 2.1 To ensure that the integrity of the decision making process is not impaired, either in reality or in perception, through the lobbying of Members who will make decisions, it is important that any approaches by lobbyists are recorded and that any representations made to Members form part of the public information leading to any decision. If an approach is received by a Member of the Planning Committee, from an applicant, agent or other interest party in relation to an existing or proposed planning application, then that Member shall:

- (i) inform such applicant, agent or interested party that, in order to avoid accusations of partiality, he/she is only able to offer procedural advice and that any such person should either write to officers of the Council or write or speak to a Member(s) who is not on the Planning Committee. This should not however be taken to mean that Members who are on the Planning Committee should not listen to the views that the lobbyist wishes to express.
- (ii) complete the standard form provided, and forward this to the Director of Regeneration, Housing & Planning. This will enable a record to be kept of any such approach. This form of record keeping will assist individual Members to counter any accusations that his or her decision has in some way been biased or partial.
- (iii) where a Member of the Planning Committee receives written representations directly in relation to a planning application, (or proposed planning application) the Member should pass a copy of the correspondence to the Director of Regeneration, Housing & Planning in order that those representations can be included in the officer's report to Planning Committee.

- 2.2 Members of the Planning Committee should avoid organising support for or opposition to a planning application and avoid lobbying other Members. Such actions can easily be misunderstood by parties to the application and by the general public. Members of the Planning Committee should also not put pressure on officers for a particular recommendation.

- 2.3 Members involved in the determination of planning applications should avoid attendance at public meetings in relation to planning matters. If such public meetings are attended, no views on the merits or otherwise of the proposal should be given. To do so might lead the

public to believe that the individual Member had already made up his/her mind prior to the meeting of the Planning Committee.

2.4 Given that the point at which a decision on planning applications to be considered by the Planning Committee cannot occur before the Planning Committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the Committee meeting should not be used to decide how Councillors should vote, whether this be for or against an officer's recommendation.

2.5 Pre-Application Discussions

Discussions between a potential applicant for planning permission and Council prior to the submission of an application can be of considerable benefit to both parties and is generally encouraged as assisting the planning process. However, it would be easy for such discussions to become or be seen (especially by objectors) to become part of a lobbying process. To maintain impartiality it is preferable that no Members of Planning Committee take part in pre-application discussions. However, should there be occasions where Members are involved they should be advised by the appropriate officers of the Council and their involvement in such discussions recorded on the planning file.

3. Reports by Officers to Planning Committee

3.1 Members are required to arrive at a decision on granting or refusing permission by using planning criteria and by excluding non-planning considerations. In determining planning applications Members are required to have regard to the development plan for its area and to any other material considerations. To this end, the reports of officers to Members must be accurate and cover all relevant points. These reports:

- (a) Should contain a section on the relevance of the development plan, a description of the site and any related planning history that is relevant to the proposals being considered and all other material considerations will be outlined.
- (b) Should deal with the substance of any objections received and the views of people who have been consulted or notified.
- (c) Should incorporate a recommendation for the consideration of Members.
- (d) Should contain a technical appraisal which clearly justifies the stated recommendation.

- (e) If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.

4 Public Speaking at Planning Committee

4.1 The benefits of allowing public speaking at Planning Committee are that public confidence is generally enhanced and direct lobbying may as a result be reduced. The disbenefits are that it may lengthen meetings and make them marginally more difficult to manage. Public speaking is allowed at Wirral Council's Planning Committee and clear rules to enable this have been established as to who is allowed to speak. The following protocol should therefore be adopted:

- (a) Where there is a petition of objection to the grant of planning permission and this contains at least 25 names/signatures, a representative of the petitioners shall be allowed to address the Planning Committee upon the subject of the petition for up to a maximum of 5 minutes.
- (b) When this occurs, the applicant or his/her agent will also be allowed to address the Planning Committee for up to a maximum of 5 minutes.
- (c) Where there is more than one such petition (as outlined in (a) above), if it appears that the subject matter of the petition is significantly different in substance, the Chair of the Planning Committee may decide whether or not to allow more than one representative to address the meeting, provided that the maximum period of 5 minutes is not exceeded.
- (d) A dialogue will not be permitted between the Members of the Planning Committee and applicants/agents and representatives of the petitioners. Normally any questions or issues arising from representations will be responded to by officers with the Chair of the Planning Committee having identified those specific matters requiring a response.

5 Committee Site Inspections

5.1 Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial. A decision by the Planning Committee to carry out a Site Inspection should normally only take place when:

- (a) There is considerable local concern about a proposal, allied to planning reasons for carrying out the visit (e.g. the physical relationship of the site to other sites in the neighbourhood); or

- (b) if the impact of the proposed development is difficult to visualise from the plans and supporting materials; or
- (c) the proposal is particularly contentious; or
- (d) the proposal is contrary to a specific policy or raises wider policy issues.

5.2 Where it is intended to hold a formal Site Visit and hear the applicants and the objectors it is essential that extremely careful arrangements are made to ensure that both parties are treated fairly and equitably and that the appropriate standards of propriety are seen to be upheld. Accordingly, the procedural rules contained in the **Code of Practice for Planning Committee Site Visits** must be observed at all times in the holding of all site inspections.

5.3 Members of the Planning Committee are encouraged to look at an application site following receipt of their agenda and prior to the date of the Planning Committee meeting. This will enable them to acquaint themselves with the nature of the proposals and will help avoid delay and unnecessary site visits. However, Members should conduct such site visits from a public vantage point and should not discuss the applications with any applicant/agent or third party.

5.4 Members of the Planning Committee should avoid entering any premises not normally open to the public which are either:

- (a) the subject of, or affected by, a planning application; or
- (b) known by the Member to be likely to become the subject or, or affected by, a planning application

for any purpose in connection with such an application, save in the course of a Committee Site Visit.

6 Regular Review of Decisions & Training

6.1 At least on an annual basis, arrangements will be made for Members of the Planning Committee to visit a sample of implemented planning permissions in order to assess the quality of decisions. This should include examples from a broad range of categories such as major and minor developments, permitted departures, upheld appeals, listed building works and enforcement cases.

6.2 The Planning Committee should consider the outcome of this review and decide whether it gives rise to the need to review any existing policies or practices.

- 6.3 Members of the Planning Committee should receive training in the planning system either before serving on the Planning Committee or as soon as possible after their appointment to the Committee.

7 Officer Code

- 7.1 An officer's function is to advise Members on all matters of planning policy and procedure in their determination of planning and related applications by:
- (a) Providing impartial and professional advice.
 - (b) Making sure that all the necessary information is available for a decision to be made.
 - (c) Providing a clear and sufficient analysis of the issues including the development plan policies and all other material considerations.
 - (d) Giving a clear recommendation.
 - (e) Carrying out the decisions of Members at Planning Committee.

In Addition

- (a) Impartial advice will be given to prospective applicants prior to submitting an application. It will then be made clear that such advice will be without prejudice to any subsequent recommendation or formal decision by the Planning Committee or a decision made under delegated powers. These discussions are known as Pre-Application Discussions. The Council does not currently charge for this service but reserves the right to consider introducing charges for pre-application advice in the future.
- (b) All application sites will be visited by the case officer.
- (c) Officers will endeavour to deal with applications in the timescales set out by the Government and by the Council.
- (d) All applications will be considered by at least two officers: the case officer plus the officer responsible for authorising the final decision and/or recommendation to Planning Committee (usually a Principal Planning Officer and/or the Development Management Manager). The Development Management Manager will consider all applications recommended for refusal under delegated powers. All applications to be considered by Planning Committee will first be authorised by the Development

Management Manager and the Head of Regeneration & Planning.

- (e) For those applications being considered by the Planning Committee, members of the public, applicants, agents etc. will not be advised of the officer's recommendation to Planning Committee until agendas have been sent to Members and the Agenda published on the Council's website.
- (f) When an application is submitted by an officer involved in the planning process, such applications will not be determined under delegated powers.
- (g) Where an officer has a relationship with any applicant, agent or organisation that could lead to a third party suggestion of bias, the officer will inform the Director of Regeneration, Housing and Planning and take no part in processing or determining the application.
- (h) Officers should not, under any circumstances, accept gifts or hospitality. If, however, a degree of hospitality is unavoidable, it should be ensured that this is of the minimum and is declared as soon as possible. All offers of gifts and hospitality, whether accepted or not, must be entered into the hospitality record book.

8. Decisions Contrary to Officer Recommendation and/or Development Plan

8.1 The law requires that where the development plan is relevant, decision should be taken in accordance with it unless material considerations indicate otherwise.

8.2 In discussing and then determining a planning application, Members should confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing and supported by planning evidence.

8.3 If the planning committee makes a decision contrary to the officer's recommendation (whether for approval or refusal) a detailed minute of the Committee's reasons should be made and a copy placed on the application file.