

## **5.3 PART 5.3 — CODE OF PLANNING CONDUCT AND PRACTICE**

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### **5.3 – 1 INTRODUCTION**

- 5.3 – 1.1** The town and country planning regime regulates the development and use of land in the public interest. It literally shapes the Borough in so many ways and naturally attracts attention.
- 5.3 – 1.2** Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework in the public interest. Planning necessarily affects land and property interests (including the financial value of land and the quality of their settings) and, as a consequence, decisions can often be highly contentious because decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers, with winners and losers.

- 5.3 – 1.3** It is essential therefore that the integrity of the town and country planning regime is safeguarded. The planning system can only function effectively if there is trust among those involved. There must be trust between Members and officers and between the public and the Council.
- 5.3 – 1.4** The Council is committed to open and accountable decision making. Planning decisions should be made properly, with sound judgement and for justifiable planning reasons.
- 5.3 – 1.5** This Code sets out practices and procedures that Members and officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning and related applications, the preparation of development plans and other planning policy documents and the enforcement of planning control.
- 5.3 – 1.6** Failure to follow this code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual Members and officers.
- 5.3 – 1.7** This Code combines the best of national and local practice and highlights the importance of public perception of probity in the planning system. It aims to increase public confidence in the planning process by detailing how Members and Officers will conduct themselves and explains how persons can access the democratic process. This Code is kept under regular review and has been updated.

## **5.3 – 2 THE ROLES AND CONDUCT OF MEMBERS AND OFFICERS**

- 5.3 – 2.1** Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 5.3 – 2.2** Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making planning decisions. The basis of the planning system is the consideration of proposals against wider public interests. Much is often at stake and opposing views are often strongly held by those involved.
- 5.3 – 2.3** Members' decisions shall not discriminate against or in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members, therefore, must represent their constituents as a body and vote in the interests of the whole district from the land use and development perspective.
- 5.3 – 2.4** Whilst Members should take account of all views expressed, they shall not favour any person, company, or group, nor put themselves in a position where they appear to do so.

- 5.3 – 2.5** Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 5.3 – 2.6** That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, will have an opinion about a planning proposal, but this must be on the basis of professional judgement. This judgement must not be arrived at because an authority, its Members or other officers, have prevailed upon the officer to put forward his or her professional view as something contrary to what it really is.
- 5.3 – 2.7** The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 5.3 – 2.8** The Council employs officers who are Chartered Town Planners holding corporate membership of the RTPI and such an officer should have direct access to Members in the event of his being the professional adviser on planning matters. Another officer shall not have the power to overrule the professional advice of the advisor on planning matters.

### **5.3 – 3 DECLARATION AND REGISTRATION OF INTERESTS**

- 5.3 – 3.1** Officers must always act impartially. An officer who believes he or she may be seen to have a personal interest in a planning matter, shall declare it at the earliest opportunity to the Monitoring Officer and have no further involvement in the processing or consideration of that matter. The Monitoring Officer will advise the Executive Director (Operations) of the declaration. By way of example, an officer will have a personal interest in a planning matter if:
- they have made an application; or
  - a close friend or relative has made an application; or
  - an organisation of which they are a member has made an application; or
  - an application is made in respect of property in which they have an interest; or
  - they object to a planning application.
- 5.3 – 3.2** Serving Members involved in the consideration and determination of applications shall not act as agents for persons pursuing a planning matter within the Borough of Amber Valley. Serving officers of Planning Services shall not act as agents for persons pursuing planning matters either within or outside the Borough of Amber Valley. Officers may, within their own time, serve in a voluntary capacity on a Royal Town Planning Institute Planning Aid panel for cases outside the Borough of Amber Valley.
- 5.3 – 3.3** Any serving Member or officer upon making representations in a personal capacity on any planning proposal shall declare their interest to the Monitoring Officer and take no part in any processing or decision making associated with the proposal.

**5.3 – 3.4** Members who have substantial property interests, or other interests that would prevent them from voting on a regular basis, should avoid serving on the Planning Board. It is suggested that if a Member finds the need to regularly declare interests requiring removal from the Board meeting on two or more occasions per Board or 25 occasions in a full year he or she should give consideration to vacating the place on the Planning Board.

**5.3 – 3.5** Proposals to their own authority by serving and former Members and officers and their close friends and relatives can easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted. It is, however, vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

**5.3 – 3.6** A serving Member or officer shall take no part in the processing consideration or determination of an application in the following circumstances:

- a) when the submission is their own proposal;
- b) when the submission concerns property in which they have an interest;
- c) when the submission is by a close friend or relative or by an organisation in which they are a member (other than Amber Valley Borough Council).

**5.3 – 3.7** Any application for which interests have been declared under this section, but which does not fall within the above paragraph 5.3 – 3.6 shall, subject to the following section, otherwise be processed and determined within normal provisions, including appropriate officer delegations.

#### **5.3 – 4 DEVELOPMENT PROPOSALS IN WHICH MEMBER OR CERTAIN OFFICERS HAVE AN INTEREST**

**5.3 – 4.1** Any serving Member or Affected Officer of the Council shall advise the Assistant Director (Planning and Regeneration) of any planning proposal in which they have an interest falling within paragraph 5.3 - 3.6 above. These interests will be specifically recorded as soon as they are identified and the Monitoring Officer will be advised by the Assistant Director (Planning and Regeneration).

**5.3 – 4.2** Any such proposal is to be reported to the Planning Board for determination and not dealt with under officer delegated powers.

**5.3 – 4.3** An officer shall be an Affected Officer if he or she is a Chief Officer, or an officer in Planning Services, or an officer who would ordinarily be consulted in relation to the application concerned, or would otherwise normally be involved in the processing, consideration or determination of the application.

#### **5.3 – 5 DEVELOPMENT PROPOSED BY THE BOROUGH COUNCIL**

- 5.3 – 5.1** Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself.
- 5.3 – 5.2** Proposals submitted by the Council shall be considered in the same way as those by private developers, except that proposals which are the subject of objections on material planning grounds, which objections have not been resolved by negotiation or the imposition of conditions, shall be reported to the Planning Board for determination.
- 5.3 – 5.3** In the event that the delegated jurisdiction of Planning Board is withdrawn for any reason and retained by Council the various provisions of this Code shall apply to Council proceedings when dealing with planning matters.

### **5.3 – 6 LOBBYING OF AND BY MEMBERS**

- 5.3 – 6.1** Lobbying is a legitimate part of the political process. Those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or to a Member serving on the Planning Board. The information provided by lobbyists is likely, however, to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered, before a Member is in a position to make a balanced judgement on the merits of a case.
- 5.3 – 6.2** A Member is permitted to listen to the points being raised by a lobbyist and to agree to transmit them impartially to the Planning Board. The Member is not permitted to offer a concluding view or opinion on the matter to the lobbyist. Reaction, to lobbying can however, lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 5.3 – 6.3** In transmitting points raised a Member may record details of any lobbying associated with a planning application or other planning matter. A copy of those details can then be supplied to the Assistant Director (Planning & Regeneration). These will be included as public documents on the application file and if the application is reported to the Planning Board, will be referred to in the report.
- 5.3 – 6.4** Alternatively, it will be the duty of a Member to report a lobby if they take part in the Planning Board meeting that considers an application about which they have been lobbied. The report must identify the lobbyist and the substance of the lobby and be delivered as a point of information to committee when declarations of interest are made or immediately after the application has been presented or during the course of a public hearing. Provision will be made for that purpose in the committee process. Once the lobby has been reported the Member is then free to contribute to debate about the application and come to whatever individual conclusion he or she decides, picking up on any relevant issues raised in the committee report or presentation.

- 5.3 – 6.5** A Member is not entitled to act as a delegate for any outside interest when contributing to the consideration of any matter under the jurisdiction of the Planning Board.
- 5.3 – 6.6** Some Members attend Parish Councils or Parish Meetings in their capacity as Borough Members and become privy to conclusions reached and individual views expressed about planning applications which are subsequently considered by the Planning Board. Active contribution at such meetings to the consideration of such applications shall be treated in the way set out in 5.3 - 6.2 above, as a lobby. (Note: For the avoidance of doubt it is to be expected that if a Borough Member is also an elected member or an officer of a Parish Council they will be able to contribute fully, in their parish capacity, to the work of that Council, including work associated with planning issues. However members should not form or express a concluding view or opinion on the matter at a meeting of a Parish Council or Parish Meeting).
- 5.3 – 6.7** The time for individual Members of the Planning Board to make a decision on a proposal is at the Board meeting when all available information is to hand and has been duly considered.
- 5.3 – 6.8** Members who serve on the Planning Board shall not organise support or opposition for a proposal, lobby other Members (other than when addressing the Planning Board) or put pressure on officers for a particular recommendation.
- 5.3 – 6.9** Members who serve on the Planning Board must be free to vote as they consider appropriate on planning matters. Political group meetings prior to the Planning Board meeting shall not be used to decide how Members should vote.

### **5.3 – 7 DISCUSSIONS AND NEGOTIATIONS CONCERNING APPLICATIONS, INCLUDING PRE AND POST APPLICATION DISCUSSIONS**

- 5.3 – 7.1** Discussions between an applicant and a planning authority, prior to the submission of an application, can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process.
- 5.3 – 7.2** Members of the Planning Board need to preserve their role as decision makers operating under the principle of democratic accountability and should not take part in pre or post submission discussions and negotiations with applicants regarding development proposals. If occasions arise when Members are involved, these should be part of a structured arrangement with officers, including a senior planning officer. The Member's role in such an arrangement must not extend beyond that of receiving information.
- 5.3 – 7.3** Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their decision-making role, they should maintain a clear distinction between receiving information and negotiating.

**5.3 – 7.4** Any application in which the Executive Director (Operations) or Assistant Director (Planning and Regeneration) has personally contributed to the negotiation must be decided by Planning Board and not under his general delegated powers.

**5.3 – 7.5** Pre, post or general application discussions or negotiations shall be conducted in accordance with the following guidelines:

- a) it should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the officer only;
- b) advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies between planning officers;
- c) all advice given should reflect material planning issues only and must not include observations of a financial nature or others that relate to specialist consultant interests;
- d) a written note should be made of the meeting. Two or more officers should attend potentially contentious or controversial meetings. In exceptional cases when a meeting is attended by a Member this should also be recorded;
- e) whilst discretionary a copy of the note or a letter may be circulated confirming the content and results of the meeting; and
- f) written notes should be made of telephone conversations concerning development where negotiations are undertaken.

### **5.3 – 8 PLANNING OBLIGATIONS**

**5.3 – 8.1** Planning Obligations (Section 106 of the Town and Country Planning Act 1990) connected with application proposals are only to be sought where they fulfil criteria of being:

- a) necessary to make a proposal acceptable in planning terms;
- b) relevant to planning;
- c) directly related to the proposed development;
- d) fairly and reasonably related in scale and kind to the development
- e) reasonable in all other respects;

**5.3 – 8.2** Any such Obligation, which requires to be completed in advance of the related planning consent, may be negotiated under officer delegation by the Executive Director



(Operations). The Council's signing and sealing of any Obligation will be attested by the Mayor or Deputy Mayor, Executive Director (Resources) or any other duly authorised officer. In general, developers entering into an obligation with the Council will be required to pay the Council's costs of negotiating and preparing the Obligation. The amount payable will be determined by the Executive Director (Resources) or any other duly authorised officer.

**5.3 – 8.3** Where an Obligation involves a financial consideration impacting in some way on the Council or other public body the terms of that consideration shall be assessed by the Executive Director (Resources) and certified as complying within the financial framework of the measure. The certification will be retained in the Council's Register of Planning Obligations along with copies of completed Obligations.

### **5.3 – 9 PUBLICITY ABOUT PLANNING APPLICATIONS**

**5.3 – 9.1** A considerable degree of publicity can be associated with a planning application. This in the main involves a range of consultations with statutory bodies and Parish Councils, the requirements of which are set down in legislation.

**5.3 – 9.2** In respect of consultations these are undertaken by specific individual letters to each consultee, as appropriate, about each application consulted upon.

**5.3 – 9.3** The Council also has a duty to publicise planning applications so that interested parties who are not consultees, become aware of proposals and are provided with the opportunity to make representations.

**5.3 – 9.4** Notification on applications generally has a 21 day response period and includes the following procedures:

- a) Brief details of every application are recorded on a list which is available for purchase and perusal at the Council offices.
- b) A site notice is displayed on or near every site for which a planning application has been submitted. This gives brief details of the proposal and provides the opportunity for the application and plans to be viewed at the Town Hall, Ripley.
- c) Some proposals are additionally made the subject of individual letters to adjoining and nearby residents. With such a procedure each adjoining property should as a minimum be notified.
- d) Some more significant applications are required, by legislation, to be subject to formal advertisement in the local newspaper.



**5.3 – 9.5** Comparable procedures apply with respect to significant amendment proposals for applications.

### **5.3 – 10 LIAISON WITH PARISH COUNCILS AND PARISH MEETINGS**

**5.3 – 10.1** It is important that a good relationship exists between the Council and Parish Councils and Parish Meetings with the Borough. These bodies have elected to participate in the planning process, as is their right, and many consider responding to consultation on planning to be one of their most important roles.

**5.3 – 10.2** Planning can be controversial from time to time and open to lobbying pressures. The pressures that exist at district council level also beset the work at parish level in responding to planning applications and other planning issues.

**5.3 – 10.3** From time to time the decisions reached about planning proposals by the Council will be at variance with the recommendations of a Parish Council or Meeting. The cause of such variance is not always clear. On occasions there may be a lack of appreciation of the material planning issues or simply a different judgment call.

**5.3 – 10.4** Responses from the Parish Councils and Meetings are often not from professionals providing advice on a specialist interest but come from a mandate to represent the local community interest in a particular proposal.

**5.3 – 10.5** The Council is committed to ensure that good relationships and levels of understanding exist with the Parish Councils and Meetings in the Borough of Amber Valley.

### **5.3 – 11 PUBLIC MEETINGS AND ATTENDANCE AT MEETINGS OF PARISH COUNCILS**

**5.3 – 11.1** Public meetings may be held at the behest of the Planning Board for major contentious applications where significant planning issues arise. The holding of such meetings need to be formally agreed by the Planning Board or by the Executive Director (Operations). Any such meeting will be duly advertised and will ordinarily take place in a venue local to the application site.

**5.3 – 11.2** A public meeting is seen as providing an opportunity on the one hand for a proposed development to be described together with the planning issues being considered. On the other hand there is a purpose in obtaining views on the development. Views so obtained may, where material, be taken into account in the consideration and reporting on the application.

**5.3 – 11.3** Any public meeting arranged on behalf of the Planning Board will be chaired by the Chairman or Vice Chairman of that Board. The meeting will provide the opportunity for the proposals to be explained together with any planning considerations that have to be taken into account. Any party interested in the proposal will be permitted to address the meeting, including the

applicant, and offer their views. Such presentations will normally be limited to a maximum of five minutes per person, and the Chairman shall have discretion to determine the number and length of any presentations in the interests of the efficient conduct of the business of the meeting. Neither an officer nor any Member who serves on the Planning Board may express a concluded view about the application to such a meeting.

**5.3 – 11.4** If a public meeting is called by a Parish Council or any other third party about a proposed development it will be permissible for officers and Members to attend and participate but again neither an officer nor any Member who serves on the Planning Committee may express a concluded view about the application or development proposal to such a meeting.

### **5.3 – 12 OFFICER REPORTS TO PLANNING BOARD ON PLANNING APPLICATIONS**

**5.3 – 12.1** Written reports of Officers to the Planning Board shall be accurate, succinct and provide all relevant information. They should have a reasoned assessment of the proposal, a justified written recommendation and be structured as follows to the extent judged necessary by the development proposal:

- a) Description of the proposed development;
- b) Description of the application site and surroundings;
- c) Details of relevant planning history for site;
- d) Information on relevant development plan policies;
- e) Information about any legal requirements relating to the proposed development;
- f) Advice about the method of publicity adopted in connection with the application and a summary of any material third party representations received;
- g) Formal consultation responses received;
- h) List of the main planning issue headings raised by the application;
- i) Planning assessment broken down against the main planning issue headings;
- j) Summary conclusions;
- k) Recommendation;
- l) Contact officer.

**5.3 – 12.2** Report texts should avoid referring to issues that are not material and in particular should not stray into offering opinions about people, their characters and their motives. Disparaging remarks should be avoided.

**5.3 – 12.3** If the recommendation in a report is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

**5.3 – 12.4** Oral reports (except to present and update a report) should be extremely rare and carefully minuted when they do occur. The Assistant Director (Planning and Regeneration) will notify the minuting officer prior to the meeting of any occasion when such minuting will be required.

**5.3 – 12.5** Planning Board reports should, wherever possible, have a clear recommendation relating either to approval or refusal of planning permission. Exceptions may arise for example in cases where an application is being referred to the Secretary of State or, when a Planning Obligation (Section 106 Obligation) is in prospect. Normally however the Planning Board should be asked to consider the application when the processing is complete.

**5.3 – 12.6** There will be occasions when it is considered appropriate to request the Planning Board to visit the site in advance of determining an application. It is perfectly permissible to recommend that a Board site visit is held for an application which has not completed its processing.

### **5.3 – 13 PUBLIC HEARINGS AT PLANNING BOARD**

**5.3 – 13.1** Many Local Planning Authorities permit members of the public to address the Planning Board about a particular proposal prior to the consideration of the application. Procedures vary across the country but all are designed to provide as fair an opportunity as possible for a balance of views to be provided between those supporting and those opposing an application.

**5.3 – 13.2** Members of the public are permitted to address the Planning Board where the matter is not being determined under delegated authority of an officer and the following protocols relate to the procedures adopted.

**5.3 – 13.3** Protocols:

- a) In accordance with the Council Procedure Rules, any person (including Members, Parish representatives, applicants, objectors and supporters) may seek to address the Planning Board by making representations, answering questions or giving evidence at a meeting, in relation to any matter which appears on the agenda for that meeting.
- b) Any person who wishes to address the committee should request to do so in writing to the Assistant Director (Planning and Regeneration) by no later than midday one clear working day before the day of the meeting (that is not counting the day of the meeting

or the day notice is given - so for a meeting on a Monday, notice must be given by no later than midday on the preceding Thursday).

- c) In addition to the above provisions, on receipt, within the time frame given, of a material objection to a planning application the objector will be advised by the case officer, in acknowledging receipt of the objection, of the opportunity to address the Planning Board if and when the application is determined by the Planning Board. They will be supplied with a form which they can return if they want to avail themselves of that opportunity. The request should be made promptly and in any event within ten days of the day the form referred to above is sent to the objector.
- d) The participation of any Member or member of the public will in all cases be at the discretion of the Chairman of the Planning Board. Ordinarily approval will be granted, but on occasion the Chairman may refuse the request on the grounds mentioned in the Council Procedure Rules. A request will generally be refused if the representation does not relate to material planning considerations.
- e) If a presentation from an objector is agreed the opportunity will also be given for the applicant to respond.
- f) If a hearing is agreed the case officer will liaise with the person making the request and the applicant to set up the arrangement. Details of the procedure on the day will be sent to each party appearing. In the event that two or more requests are received from the public to make a presentation about a particular proposal, efforts will be made to reduce this to one person. Equally the applicant will be expected to be represented by one person. In the event of disagreement the Planning Board will ordinarily hear no more than two representations, which will usually be limited to the two parties living nearest to the application site. In respect of major applications generating significant public interest, the Chairman will give consideration to allowing more parties to speak.
- g) On the day of the Planning Board, hearings will take place as the item arises on the agenda unless the Order of Business is varied.

**5.3 - 13.4** The following procedure will apply:

- a) Any person making representations objecting to the grant of permission or seeking the imposition of conditions will address the Planning Board for up to 3 minutes.
- b) The Planning Officer will briefly outline what the proposal is about;
- c) The Planning Board will then debate the proposals and come to a decision.

- d) Notwithstanding the above, the Chairman of the Planning Board shall have power to exercise discretion regarding the procedure to be adopted in any case.

### **5.3 - 14 PHOTOGRAPHING PROPOSALS AND VISUAL PRESENTATION**

**5.3 - 14.1** Planning Boards can benefit from visual presentation in association with the applications and other issues they consider. Presentations will usually consist of plan display and selective projection of photographs taken at the time of a site inspection, which may be of considerable benefit in assisting the visual presentation of a scheme to the Board.

**5.3 - 14.2** Photographic presentations are provided to assist in portraying the existing factual situation at the site. Consideration will when appropriate be given to the use of technology to portray visually the development proposals and as appropriate their superimposition on the existing site conditions.

**5.3 - 14.3** It is important to ensure that any photographic presentation is fair to the application, especially as it will not form part of the application. A poor presentation on which an application is judged could in certain circumstances open up the Council to criticism and possible litigation.

### **5.3 – 15 GUIDANCE ON THE REFERRAL OF PLANNING APPLICATIONS TO PLANNING BOARD**

**5.3 – 15.1** This Guidance is to assist Members in deciding on whether an application should be referred to the Planning Board for determination.

Under the Council's scheme of delegations all decisions other than for the exemptions listed in the scheme of delegations are delegated to officers to determine in consultation with the Chair of Planning Board.

One of the exemptions is where the local Member has exercised the right to request that a decision be referred to the Planning Board within 28 days of the start of the notification period.

This guidance seeks to assist Members in deciding when a decision should be referred to Planning Board.

### **5.3 – 15.2 MATERIAL PLANNING CONSIDERATIONS AND THE REASONS FOR A REFERRAL**

Frequently Members will be asked by concerned neighbours to refer an application to the Planning Board. Not all requests from members of the public should be agreed to. Before an application is referred to Planning Board Members need to be satisfied that the ground of

objection is a material planning consideration which should be considered by the Planning Board.

The reason for the referral needs to be stated in the referral request.

### **5.3 – 15 -3      TRANSPARENCY**

Where a Member is approached by a member of the public in relation to an application they need to make it clear to the member of the public whether they intend to make a request for a referral to Planning Board or not.

If having agreed to make a referral the Member later changes his or her mind (perhaps after discussion with the case officer) the Member must inform the member of public of this and the reasons for it .

### **5.3 – 15.4      ATTENDANCE AT PLANNING BOARD**

Where a Member requests that an application be referred to Planning Board the Member should attend the Planning Board and speak on the reasons for the referral.

Where a Member is unable to act for any reason he or she should request another Member to act in his or her place. Normally this should be another Member from the same ward or if this is not possible the Chairman of Planning Board should be asked to act.

### **5.3 – 15.5 RULES OF PROCEDURE FOR SITE VISITS**

The Council acknowledges that planning applications frequently generate considerable interest and tension within the community. As a result, the Planning Board is often asked by various parties to visit sites before making a decision. Not all requests for site visits are justified and to help the Board decide whether or not to accede to a request, a procedure has been put in place that is designed to increase public confidence and understanding. The procedure applies important tests to help the Board reach a decision on whether a site visit is justified and outlines rules for the conduct of the site meeting itself.

Requests for site visits will be considered against the following criterion:-

Site visits can cause delay and additional costs and shall only be used where the expected benefit is clear and substantial;

A site visit is only likely to be necessary if:-

- (a) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although, if this is the case, councillors should first consider requesting that additional illustrative material should be made available);
- (b) there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing; or,
- (c) the expected benefit is clear and substantial;

Requests for site visits shall be made by a local member but if a local member is unable to act due to a personal interest or some other reason, any other member can request a site visit.

The Chairman of the Planning Board can request a site visit in respect of any ward.

An officer can request a site visit.

Requests shall normally be in writing, prior to the meeting, to the Executive Director (Operations) and shall set out the reasons for the request.

If the Executive Director (Operations) after consultation with the Chairman of the Planning Board considers the request is justified, he shall organise the Site Visit otherwise the request shall be referred to the next meeting of the Planning Board. This includes obtaining the requisite permission to enter upon the relevant site.

Site visits will not normally be held at times when the membership of the Board may be reduced due to Borough Elections or other changes in the composition of the Board are anticipated.

If it is agreed to visit a site the following procedure will generally apply, subject to the Chairman exercising his/her discretion in the general conduct of the meeting on site

### **5.3 – 15.6 BEFORE GOING ON SITE**

The site visit shall be a private visit and shall not be a formal meeting of the Planning Board which is open to the public.

- The purpose of the site visit will be agreed by the Planning Board;



- So far as is practicable, members with an interest in an item shall advise the Monitoring Officer accordingly in advance of the site visit.
- The Monitoring Officer shall record the member's name and details of the declaration on the form used for that purpose.
- Before departing the agreed assembly point, the Planning Officer shall read aloud the declarations listed on the form. Subject to the following bullet point, Members with a disclosable pecuniary interest, or other prejudicial interest in an item shall remain at the assembly point until the site meeting on that item has been concluded.
- Where a vehicle is used to visit sites:
  - Members declaring a personal interest may travel on the vehicle.
  - Members declaring a prejudicial interest may travel on the vehicle but must not at any time speak to another member or officer about the matter in which he/she has declared such an interest.
  - Members declaring a prejudicial interest shall not attend on the site and shall remain on the vehicle until the site meeting on that item has been concluded. If a prejudicial interest is declared at this stage, the matter shall be recorded on the form and the member concerned shall leave the site immediately and shall return to the vehicle.
- At the site meeting, the Planning Officer shall advise those persons present of the details of any declarations of interests made by members and shall note any new declarations made by members on site.
- If despite the above, any member considers that, in the interests of maintaining public confidence they believe they should not travel on the vehicle, they should inform the Monitoring Officer and ask him to make suitable alternative transport arrangements or make their own.

### **5.3 – 15.7 ON SITE**

- Councillors, officers and other attendees shall comply with the Council's health and safety procedure for site visits, as outlined in the Local Code of Good Practice.
- The Chairman shall welcome everyone and shall explain the purpose of the meeting, which is primarily to inspect the area and gather facts, the matter must not be debated on site, debate is restricted to the formal meeting to be held on a future date at the Town Hall;

- The Planning Officer shall outline the proposal and the planning issues and the applicant or his/her agent shall be permitted to clarify any issues and answer questions;
- All parties attending the site visit shall be treated fairly and equitably and high standards of conduct shall be upheld at all times.
- If a member of the Planning Board is not present at the site inspection, he/she shall not normally vote on the matter. In such circumstances the member shall advise the Chairman accordingly before the formal meeting commences and may speak only on the item, provided (s)he sits separately from those members of the Board who are entitled to vote.
- However where a Member of the Planning Board has not been present at the Site Visit but has visited the site independently and has sufficient knowledge of the application site and declares this at the meeting he or she may speak and vote on the application.
- Members of the Planning Board should listen carefully to what is being said, may ask questions but should not make comments on site on the merits of the application.

### **5.3 – 15.8 MEMBERS' INTERESTS**

- If a member has an interest in an item he/she should advise the Monitoring Officer and Chairman of the Planning Board in advance of the site inspection.
- Where a Member indicates that they have a prejudicial interest, but wish to make representations regarding the item before leaving the meeting, those representations must be made under the item following Public Speaking. A member with a disclosable pecuniary interest may not speak or make representations and must leave the meeting before the start of any discussion of the item.

### **5.3 – 15.9 REACHING A DECISION**

- No discussion of the application shall take place on the Site Visit and the application shall be determined at a future meeting of the Planning Board.
- The officers shall be able to give advice at any time before a decision is taken.

### **5.3 – 16 DECISIONS CONTRARY TO OFFICERS ADVICE**

- 5.3 – 16.1** Where the Board is “minded” to make a decision which is contrary to Officers advice and it is likely that the decision would represent a major departure from the Development Plan

the Chairman shall ask each Member how they are disposed towards the application and record their reasons. The application shall then stand deferred to the next meeting of the Planning Board (unless in exceptional circumstances the Planning Board determines a later meeting).

At the deferred meeting the Planning Board will consider the Officer's report and then confirm, modify or change its provisional views. This procedure will allow time for confirmation that clear and convincing justification for approval or reasons for refusal of the planning application can be made, based on material planning considerations.

This will then be the Board's minuted decision.

Where the Board make a decision which is contrary to an Officer's recommendation but it does not constitute a major departure from the Development Plan, the decision shall be implemented without deferral.

### **5.3 – 17 REVIEW OF DECISIONS**

**5.3 – 17.1** The former Audit Commission (now abolished) recommended in its report 'Building in Quality' that Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

**5.3 – 17.2** Visits by Members at the behest of the Planning Board to selected completed developments shall take place under the co-ordination of the Assistant Director (Planning and Regeneration) on ideally at least one occasion each year. Briefing notes shall be prepared about each case visited.

**5.3 – 17.3** The visits will take the form of a joint assessment of completed schemes between Council members, and officers. They will then be reported upon, with a presentation, to a subsequent Planning Board meeting at which all those attending the assessment will be offered the opportunity to contribute.