

# APPENDIX A

## *CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS*

### **INTRODUCTION**

1. This protocol sets out guidance for all elected members, in various roles including as local member and as a member of Planning Committee.
2. Planning Committee is established by the Full Council to:
  - (a) Determine those issues which have a genuine Island wide significance due to their size or impact;
  - (b) Raise marginal and difficult policy issues (including inconsistency between policies or those classed and advertised as a departure);
  - (c) Determine applications which are made for commercial or potentially contentious purposes by elected members or officers (or their spouses); or are contentious among the wider island communities.
3. As such, development management is among the most controversial and high profile functions of the local authority. Members need to balance their duties to individual constituents, and to the community which they represent in their role as Local Ward Members, with the need to objectively determine development management issues in accordance with the law, and locally adopted planning policies.
4. The principal purpose of this guidance is to assist officers and members in delivering unimpeachably high standards of development management decision making. It applies equally to all elected members including those who are sitting on or attending the Planning Committee. It also applies to officers throughout the local authority.
5. Officers need to be able to exercise their professional roles, which involve advising applicants, members taking decisions and, also, taking decisions themselves under the scheme of delegations.

### **OTHER RELEVANT CODES AND PROTOCOLS**

6. Regulation of members' conduct is principally by the members' code of conduct which has been adopted by this authority. Breaches of this code should be referred to the monitoring officer.
7. Any breaches of local codes of conduct, such as this code of practice, will be dealt with by the monitoring officer.
8. Relationships between members and officers are considered in detail in the member/officer protocol also forming part of this constitution.
9. The roles of members are considered in some detail in a number of job profiles, also forming part of the constitution.
10. Officers who are members of the Royal Town Planning Institute must follow a code of professional conduct. Breaches of that code may be subject to disciplinary action by the institute. All officers and members are covered by the council's own codes of conduct.

11. The constitution contains rules on acceptance of gifts and hospitality. Neither members nor officers should ever place themselves in a position of accepting hospitality from an applicant or an objector in breach of the constitutional hospitality guidance note

### **DECISION MAKING**

12. The Town and Country Planning Act 1990 establishes a plan led system. Planning applications must be determined by reference to the adopted development plan currently in place; each application must be decided in accordance with the plan unless there are material considerations to justify a departure from the plan.
13. Members who are consistently unable to support national or local planning policies will inevitably find themselves unable to take objective decisions in relation to individual planning applications, and should not participate in development control decision making. The decision as to whether a member can continue to participate in development control decision-making is one primarily for individual members, having received advice from the monitoring officer. However, any member who finds themselves speaking against a particular policy on two or three occasions during a twelve month period or five or six occasions during the lifetime of the council might choose to regard themselves as unable to support that particular policy and withdraw from debate where it is being applied. Where a member speaks against three or more policies during a twelve month period, or against five or six over the lifetime of a council similarly they may find themselves as being unable to support national or local policies to the extent they should not make development control decisions.
14. Local opposition or support for an application is not a ground for making a decision unless that opposition or support is based on material planning considerations.
15. Members can only take informed, objective, decisions when they have received and carefully read all written reports and submissions. They must attend official committee site visits and also carefully listen to all public speaking contributions and to all contributions to the debate from members. Therefore any member who has not been present throughout the whole consideration of an item must not vote.
16. The majority of applications will be dealt with by officers using delegated powers, however, the following applications and related submissions will be determined by the Planning Committee:-
  - (a) Applications which the Head of Place considers have a genuine Island wide significance due to their size or impact; raise marginal and difficult policy issues (including inconsistency between policies or those classed and advertised as a departure) or are contentious among the wider Island communities or of significant impact to a locality.
  - (b) Applications submitted by or on behalf of an elected member (or members of their close family or close associates) or by any officers (or members of their close family or close associates) employed in planning services or any other areas of the council where the individual may be involved in the planning process (unless the monitoring officer, upon receipt of a recommendation from the Head of Place, certifies that the nature of the application – being not contrary to policy and for domestic/recreational and not commercial purposes or if for refusal is supported by clear and unarguable policy reason, – is such that it can be determined under delegated powers).
  - (c) Applications where the proposed development is for council purposes or involves council owned land or property (except where the Monitoring Officer, upon receipt of a recommendation from the Head of Place, is satisfied that the application is for minor

works and does not need to be determined by Planning Committee). Examples of this would be for minor works to existing property and the use is not to be materially changed, minor applications for changes of use where there is no consequent proposal to dispose of the property, minor applications where there have been no objections during the consultation period or where the proposals are an amendment to an earlier scheme and do not extend beyond the previously consented extent of developed area)

17. Applications for Prior Approval or Prior Notification (related to permitted development rights) will not be referred to Planning Committee for determination. Such applications must be determined against set regulations, and are often time sensitive in that if they are not determined within the prescribed periods, deemed consent is granted.
18. Applications for Certificates of Lawful Use or Development (existing or proposed) which are commonly known as Lawful Development Certificates (LDCs) will not be referred to the Planning Committee as they are often complex determinations of matters of law and fact.
19. The Head of Place shall have the authority to make minor amendments to the wording on decision notices following the resolution by committee so long as the changes do not materially affect the decision itself. For example, the Head of Place may change the wording of a condition but not the need for a condition requested by members.

#### **DELEGATED DECISIONS**

20. The majority of applications will be dealt with under delegated powers. This is reflective of the overall number of applications received by the Local Planning Authority, the range of application types received and the complexity of those cases, whilst also ensuring business efficiency and compliance with required regulations related to the performance of planning authorities (and criteria for designation as set out within Town & Country Planning Act 1990). Applications are subject to formal consultation processes depending on the nature and scale of application as set out within legislation. Elected members may engage with the case officer for an application during the application process and are encouraged to do so to aid in the efficient determination of applications and resolution of issues.

#### Major applications

21. For major applications (as defined by the Town & Country Planning Development Management Order 2015) the following will apply:
  - (a) If within the 21 day consultation period of the application no letters of representation have been received, which are contrary to the officer recommendation, officers may move to determine the application under delegated powers.
  - (b) If within the 21 day consultation period of the application representation(s) are received which are contrary to the Officer recommendation, the Local Ward Member may make a request for a determination by the Planning Committee. Such a request must be made within the 21 day consultation period, or within 7 days of the closure of the consultation period. The request must be made in writing and contain relevant and material planning considerations. If no request is made within the timescales identified, officers may move to determine the application under delegated powers.
    - i. Where a request is made in connection with paragraph 21(b), officers may seek to overcome the request for a “call-in” through dialogue with the Local

Ward Member and provision of further advice. Examples of this are the provision of a summary of the officer recommendation, use of conditions, or provision of revised plans which may address the reasons set out in the request for “call-in”.

- 1) If following (i) agreement is reached, Officers may move to determine the application under delegated powers.
- 2) If following (i) agreement cannot be reached, officers will consult with the Chairman of Planning Committee who shall consider whether the reason(s) for requesting call-in to planning committee is/are relevant and material to the consideration of the application, with particular regard to the purpose of the Planning Committee established under paragraph 2. Where the Chairman of Planning Committee is not in agreement with the request for “call-in” the Head of Place (or an authorised deputy) may issue the decision under delegated powers. Where the Chairman of Planning Committee is in agreement with the request for “call-in” the item will be reported to the Planning Committee.

#### Non-major applications

22. For all other application types (except for those to which paragraphs 16, 17 and 18 of this code applies) the following will apply:

- (a) If within the 21 day consultation period of the application no letters of representation have been received, which are contrary to the officer recommendation, officers may move to determine the application under delegated powers.
- (b) If within the 21 day consultation period of the application representation(s) are received which are contrary to the Officer recommendation, the Local Ward Member may make a request for a determination by the Planning Committee. Such a request must be made within the 21 day consultation period, or within 7 days of the closure of the consultation period. The request must be made in writing and contain relevant and material planning considerations. If no request is made within the timescales identified, officers may move to determine the application under delegated powers.
  - i. Where a request is made in connection with paragraph 22(b), officers may seek to overcome the request for a “call-in” through dialogue with the Local Ward Member and provision of further advice. Examples of this are the provision of a summary of the officer recommendation, use of conditions, or provision of revised plans which may address the reasons set out in the request for “call-in”.
    - 1) If following (i) agreement is reached, Officers may move to determine the application under delegated powers.
    - 2) If following (i) agreement cannot be reached, officers will consult with the Chairman of Planning Committee who shall consider whether the reason(s) for requesting call-in to planning committee is/are relevant and material to the consideration of the application, with particular regard to the purpose of the Planning Committee established under paragraph 2. Where the Chairman of Planning Committee is not in agreement with the request for “call-in” Officers may then issue the decision under delegated powers. Where the Chairman of Planning Committee is in agreement with the request for “call-in” the item will be

reported to the Head of Place (or an authorised deputy) who having considered the request and the application with particular regard to the purpose of the Planning Committee established under paragraph 2 may authorise the decision to be issued under delegated powers. Where the Head of Place (or an authorised deputy) is in agreement with the request for “call-in” the item will be reported to the Planning Committee.

23. Where officers determine applications under delegated powers;
- A record will be kept of the planning considerations taken into account;
  - Appropriate documentation relating to the delegated process under paragraphs 20 to 22 from the Local Ward Member, Chairman of Planning Committee and Head of Place (as required) will be retained following the decision being made (in accordance with the adopted Document Retention Policy for Planning services).

### **DECLARATION AND REGISTRATION OF INTEREST**

24. The code of conduct, adopted by this authority, sets out a regime for members recording declarable pecuniary interests.
25. Details of the interests’ regime are set out in the code of conduct elsewhere in the constitution.
26. In summary the code requires (where members have a conflict of interests) that if the matter to be considered affects:
- (a) An item in the members register of interests then a disclosable pecuniary interest must be declared and the member must not take part in the consideration of the item, and must leave the room. However members with such an interest may have the same participation rights as a member of the public only if a dispensation has been granted by the monitoring officer, but must leave the room after they have done so. To speak as a member of the public members must however, in addition to having obtained a dispensation, have followed the process for registering to speak like a member of the public is required to do.
  - (b) An item that a member has a private interest in (say an application submitted by a close family member or a close associate) then members need to declare this interest and again leave the room during its consideration. Again members with such an interest may have the same participation rights as a member of the public if a dispensation has been granted. To speak as a member of the public members must however, in addition to having obtained a dispensation, have followed the process for registering to speak like a member of the public is required to do.

### **LOCAL MEMBER**

27. Any local member who is not a member of the Planning Committee is entitled to attend and speak in relation to any item on the agenda with direct impact on their electoral division so long as they have given prior notice before the start of the meeting to democratic services of their wish to attend and speak. Where a local member has requested the item be considered by the Planning Committee and that item is reported to the Planning Committee, it is anticipated that the local member will attend the meeting or make alternative arrangements for their representation at the meeting by an adjoining ward member, group leader or by provision of a short written statement which may be read by the Chairman. A local member can speak for 5 minutes at the end of public speaking unless the chairman agrees otherwise.

28. Members of the Planning Committee who are determining applications that are within their electoral division will, by local convention, declare the fact and nature of the impact on their electoral division as a personal interest and may speak but will not vote on the issue. This convention is followed in order to protect the Planning Committee from the perception that decisions are being taken on the basis of local opposition or support rather than material planning consideration. .
29. This arrangement also protects against the perception that those areas which are represented by a local member who sits on Planning Committee have a disproportionate influence on the planning processes.

### **OTHER MEMBERS**

30. The chairman of Planning Committee has the discretion to invite members of the council who are not members of the Planning Committee nor the member within whose electoral division the proposed development is located to address Planning Committee. The chairman will usually allow a member in this position to speak in relation to any issue where that member has a contribution to make which relates to material planning considerations, where it has not been practicable for the contribution to be made in writing via officers of the planning service and no other member of the Planning Committee can, or will, make the contribution which the non-local member wishes to make.

### **CABINET MEMBER FOR PLANNING & HOUSING**

31. The cabinet member with responsibility for Planning & Housing services will not be appointed to the Planning Committee. That cabinet member is nevertheless entitled to attend the committee and speak on any item which raises particular planning policy issues.
32. Sometimes the cabinet member may as local member wish to speak on an issue which also interests them as cabinet member. In order to be able to do this they must make it clear when speaking if they are speaking as a cabinet member or as the ward member.

### **LOBBYING OF AND BY MEMBERS**

33. Development management decisions must be taken objectively on the basis of relevant information.
34. Where the Planning Committee are taking the decision all, and only, relevant information must be presented either in writing or orally to the committee meeting.
35. It is perfectly proper for elected members to give applicants and objector's factual information about the process but, other than this, contact with applicants or objectors should be treated very carefully. In particular members who wish to participate in taking a decision must never express an unequivocal opinion about the merits of an application.

Whilst it will usually be easier for members to avoid debating future decisions, particularly in public forums, they may occasionally wish to do so. When this happens they should use a form of words such as "on the basis of the information I have at the moment I am likely to oppose/support the application but I will consider all the information available before I make my decision". Any member who makes a stronger statement, such as "this application will be passed over my dead body" will not be able to take part in the decision by the committee.

Members will be lobbied by individuals, groups or other interested parties in a matter and this is to be expected. However if member considered that they are receiving unduly

intense or inappropriate lobbying then they can discuss this with the head of planning and housing services for further advice

36. Members should be particularly careful not to exert pressure on an officer who has to make a recommendation to the Planning Committee. If any officer believes that pressure is being exerted upon them they will notify the Head of Place and/or monitoring officer immediately. In the event that the Head of Place believes that pressure is being exerted upon his/her role, he or she should notify the chief officer and/or the monitoring officer immediately.
37. Officers will take many planning decisions under delegated powers. It is similarly unacceptable for those officers to be lobbied by members or subject to undue pressure.

### **BIAS / APPARENT BIAS**

38. Any member who is or appears biased towards an issue can leave the decision vulnerable to challenge in the courts.
39. The court will undertake a detailed investigation of a member's conduct over a period rather than look just at the circumstances relating to that decision itself.
40. It is therefore extremely important that members are well aware of what they should and should not do to avoid having decisions undermined by later challenges. There must be an appearance of impartiality.

### **BIAS**

41. The test for bias applied by the courts in terms of a particular member who participates in the decision-making itself is as follows:

“Would a fair minded observer knowing the background, consider there was a real possibility of bias arising from a particular member being a member of the relevant decision making body.”

### **APPARENT BIAS**

42. In recent years the courts have been more willing to find that there has been an appearance of bias:

“Whether, from the point of view of the fair minded and informed observer there was a real possibility that the planning committee or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the planning issues.”

43. The court will look at the facts in each case. If a member has simply given a view on an issue this will not amount to pre-determination so as to render the decision vulnerable to legal challenge as this alone does not show that the member has a closed mind on that issue. Simply due to a member making a public statement about their approach to a planning application does not mean that the member cannot participate in the determination of the application. However members must be careful to articulate how they phrase statements made. Expressing a view may not disqualify a member on the basis of bias or the code of conduct, but they must be able to show that they have not approached the matter with a “closed mind”. Merely asserting that the member had an open-mind will be of little value – they do not relate to the all-important impression portrayed.

44. Once bias or predetermination is demonstrated, the decision will be quashed unless there is good reason for the court to exercise its discretion not to do so. It is no answer to suggest that only one member was “guilty” and therefore the decision should stand.
45. In light of the above, and the obvious issues this raises, the following further guidance is given:
  - (a) Members of the Planning Committee attending public meetings should avoid expressing opinions on any current or live planning application nor participate in any debate. They must adhere to stating fact only or declare that they are taking a position to listen to other views only.
  - (b) In respect of pending/forthcoming applications (pre-application discussions) members of the Planning Committee or local members who wish to take part in the debate should have regard to this code and may take the view that they should not attend/participate in any discussion/public meeting if they wish to take part in the debate and vote on an application.
  - (c) Members who are not members of the Planning Committee do not need to avoid discussions/meetings but must at all times have regard to the code of conduct for members.

#### **PARISH COUNCILS**

46. The danger of prejudging an issue arises not just at public meetings but also in parish and town council debates. Taking part in a parish/town council debate does not prevent members from decision taking at the Planning Committee or other members from participating in the debate. However parish/town councils do not have the advantage of planning advice nor complete information on any application. Contributions by elected members at parish/town councils must therefore be carefully worded to avoid evidence of the decision having been prejudged.
47. When a member has participated in a public debate, at a parish/town council or elsewhere, they should declare this when they speak at the Planning Committee and should make a clear statement that they have not prejudged the issue.

#### **WHIPPING**

48. The use of party political whips in development management decisions would demonstrate a predetermined position and could also be maladministration. Whipping must not therefore take place.
49. Individual members should reach their own conclusions on planning matters rather than follow the lead of another member. However, the views of other members of the committee, where they are relevant, can be one of the factors taken into account in taking a decision.

#### **PRE APPLICATION DISCUSSIONS**

50. The opportunity for developers to discuss development proposals with planning officers in advance of the submission of applications is recognised best practice. It provides potential developers with detailed guidance on planning policies and other material considerations relevant to proposals. It is preferable that members do not take part in pre-application discussions in order to maintain impartiality. In certain circumstances, members may be invited by officers to become involved in such meetings. In no circumstances should members become involved in pre-application meetings without the assistance and attendance of a planning officer.



51. High standards of probity rightfully expected of members when discharging their planning responsibilities, members should note that :
- (a) At all times members should maintain the highest standards of probity in their engagement with applicants.
  - (b) Members may have formal contact with the applicants for planning permission for strategic schemes during the pre-application and determination periods.
  - (c) Planning Committee members can comment on the details of schemes provided he or she is clear that they will listen to all material considerations presented at committee before deciding how to vote.
  - (d) Involving members early and throughout the application and determination process leads to better planning decisions and better developments.
52. Notes of all pre-application meetings will be taken, and agreed with the parties attending the meeting. Where appropriate, notes of pre-application meetings will be included on subsequent application files.
53. At the discretion of the Head of Place, developers proposing the submission of major planning applications may be offered an opportunity to present the outlines of their proposal to members of the Planning Committee prior to formal submission. In such circumstances, members should recognise that the presentation is for information only, and that the decision making process should not commence until such time as any ensuing application is subsequently made.

#### **DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS AND OFFICERS, AND FOR COUNCIL DEVELOPMENT**

54. All planning services officers or other officers involved in the planning process shall declare to their head of service any interest which they may have in any third party application (eg an application submitted in their immediate neighbourhood or by a society or club of which they are a member) and take no part in the determination of that application.
55. Where a planning application is made by an officer of planning services, or any other officers involved in the planning process, (including their wife/husband or civil partner) that officer shall play no part in the decision making process. Similar to members, the officers shall not take any part in the committee process if their application is referred to committee and should if they are present withdraw from the chamber/gallery.
56. At the meeting of the Planning Committee to which an application submitted by a member of the Isle of Wight Council is reported, that member should neither vote nor speak on the application during the debate and should withdraw from the meeting. The opportunity to present a case to the committee as part of the public speaking scheme (in accordance with this code) will be available subject to a dispensation having been granted by the monitoring officer. All members of the council who may be considering the submission of an application are strongly advised to employ the services of an agent to avoid partiality, to ensure proper contact with officers during its processing and to address the committee as appropriate.

#### **TRAINING**

57. The importance of informed objective decision making in relation to development management issues is so important that this council has a policy of training all members taking development management decisions before they start to do so.
58. Training relating to development management (including this code) and the code of conduct will be provided as a minimum for all members. Periodic additional and refresher/updating training will also be delivered. Training will be undertaken by the Head of Place, planning officers and other officers of the Council or external trainers as appropriate. It is extremely important that elected members participate in this training. Any member who believes they are not sufficiently trained should not participate in development management decisions.

## **REPORTS TO PLANNING COMMITTEE**

59. All reports will :
- Give a summary of the location and nature of the site
  - Summarise the relevant planning history.
  - Identify relevant planning policies.
  - Evaluate the main material considerations of the application.
  - Set out the representations received on the proposal.
  - Where relevant it will set out or summarise the human rights issues relevant to Planning decision taking generally or the specific proposal.
  - Set out a clear recommendation. In the case of a recommendation to approve, appropriate conditions will be set out together with reasons why it satisfies policy. In the case of a recommendation to refuse, detailed reasons for refusal will be set out.

## **BRIEFING**

60. In the period between the publication of the committee agenda and the holding of the meeting itself, a briefing will be held for the chairman and vice chairman of Planning Committee and the executive member for planning on the council's Cabinet. The briefing will be organised by the Head of Place and appropriate planning officers. An appropriate legal officer will also be in attendance, together with the committee administrator.
61. The purpose of the briefing is to:
- Advise members of the key points on each planning application,
  - Advise members of the extent of public speaking at the committee meeting.
  - Discuss administrative issues in relation to the detailed organisation of the meeting.
62. The briefing should not be used by members attending as an opportunity to exert pressure on officers to pursue a particular course of action. Detailed guidance on this matter is set out in this code of practice. Similarly the briefing should not be used by officers to impose a particular outcome.

## **CONDUCT AT MEETINGS**

63. It is important that public confidence in development control is maintained. The conduct of members at meetings is extremely important. The following arrangements should be followed unless the agreement of the chairman is sought prior:
- Members of the committee will sit in a designated seat marked with their name plate.
  - A seating plan will be available for members of the public.
  - Members will speak clearly and concisely using microphones so the public and others members can hear what is being said.
  - The chairman will introduce speakers by family name.
  - Mobile phones will be switched off or on silent.
  - Eating and drinking, other than water, is not permitted.
  - Occasional breaks will be taken during long meetings.
  - Only exceptionally will the chairman allow members to speak for more than five minutes.

#### **PUBLIC SPEAKING**

64. In order to ensure that committee members have access to a full and appropriate understanding of the often divergent comments on a planning application, the council operates a scheme of public speaking at Planning Committee.
65. Full details of the public speaking scheme are set out in "Your Chance to Speak - Public Speaking at Planning Committee" available in leaflet form from the head of planning and housing services . In summary, unless the chairman agrees otherwise for reasons of natural justice, fairness or for other reasons to enable the proper determination of an application, the key elements of this scheme are as follows:
- Public speaking is permitted on all planning applications considered by the Planning Committee.
  - Three groups of speakers are permitted on any application - the applicant/agent/supporter, objectors and parish/town councils. Each of these groups will have up to three minutes to present its case. A maximum of three people can speak for each group, with the time divided equally between them.
  - Public speaking on any application is only permitted on the first occasion the application is considered by the Planning Committee.
66. Members of the Planning Committee should give appropriate weight to the representations made by the public in their determination of planning applications. Comments made by speakers exercising their right to address the committee will, in most cases, highlight comments already summarised in the officer report on the application. In some cases, other issues will be raised which will not already be covered in the report. In assessing comments made during public speaking, members must only give weight to issues which are material planning considerations. Where appropriate and/or necessary, the chairman of the committee will request officers to comment on items raised by the public in general, and whether or not they are material to the determination of the application in particular.

## **SITE INSPECTIONS**

67. The need for site inspections (which if required will take place prior to the committee meeting) will be determined by the Head of Place or authorised Officers in consultation with the committee chairman. Members of Planning Committee must attend official site visits in order to participate in the debate and vote.
68. If members are unable to make a decision on an application without the benefit of having visited the site, or a further site visit, they may vote for a site visit where the motion identifies the potential material planning benefit of attending site (again).

## **COOLING OFF PERIOD**

69. If within 7 days of the Planning Committee at which the application was heard the Head of Place is of the opinion that a decision has been made contrary to policy and could not be sustained under challenge, they may choose to invoke the "cooling off" procedure. The effect of this action is that a decision notice will not be issued on the application. The Head of Place will notify the members of the Planning Committee that this cooling off procedure has been invoked within 5 working days of making this decision and the outline reasons will be given for the invoking of the cooling off period. A report will be brought back to the Planning Committee once the Head of Place has finalised their report and the monitoring officer has been consulted. The report will analyse the sustainability of the decision, impact upon the local planning authority and the possibility of precedent.

## **MINUTES / RECORDING DECISIONS**

70. Decisions by Planning Committee will be clearly minuted.
71. Where a decision against officers' recommendation is made, clear and sustainable reasons must be set out by the committee. Members who are considering determining an application contrary to officer recommendation are strongly recommended to seek professional advice from Head of Place and/or the case officer before raising the matter at the committee. In any event, all decisions made at the committee contrary to officer recommendation will be subject to a named vote.
72. It is not possible to revisit decisions after the issue of the decision and the Chairman of Planning Committee and those advising and assisting them, must be confident that sufficient and comprehensively recorded reasons for the decision have been set out before the next agenda item is taken.

## **REVIEW AND MONITORING**

73. Annually, the Planning Committee will review a sample of development management decisions in order to assess their impact. As part of this process a visit will be organised by the Head of Place in consultation with the Chairman of Planning Committee to a sample of sites where developments have recently been completed.
74. Every six months, or to a timescale to be agreed between the Head of Place in consultation with the Chairman of Planning Committee, the monitoring officer and/or Head of Place will report to the Planning Committee an analysis of:
- All decisions which are a departure from policy.
  - All decisions which are against officers' recommendation.
  - Site visits.

## **SANCTIONS**

75. Elected members who act in breach of this code of practice risk being the subject of a complaint about a breach of this code to the monitoring officer.
76. Breaches of the council procedure rules, particularly the planning committee rules, may invalidate a planning decision leaving that decision vulnerable to challenge on appeal, through judicial review or criticism by the ombudsman.
77. Officers who act in breach of this code of practice may be in breach of their contract of employment and subject to disciplinary or capability procedures.

# **PROTOCOL - PLANNING COMMITTEE SITE INSPECTIONS**

## **BACKGROUND**

1. This protocol has been prepared to establish procedures for the organisation of Planning Committee site inspections which take place prior to the committee meeting.

## **GENERAL PRINCIPLES**

2. A committee site inspection plays an invaluable role in the determination of more complex or controversial applications. Site inspections allow committee members to better understand the context and content of the previously published committee report. Site inspections also provide members with the opportunity to view particular aspects of a site, the proposal, or the wider local environment raised by officers, the applicant or objectors.
3. Committee members should under no circumstances make decisions on applications during the site inspection itself.
4. Members should debate the proposal at the committee meeting held, and take into account both the appropriate policies in the adopted plan and all other material planning considerations (both those identified on site and others which may not have been considered directly on the site inspection).
5. Planning officers will arrange the itinerary and make the appropriate arrangements for the committee to gain access to sites or to address the committee before, during or after the inspection a planning officer will also be in attendance at all site inspections.
6. The site inspection is not open to the general public for reasons of probity, possible health and safety issues as well as entry onto private land or premises.

## **PROCEDURES AT SITE INSPECTIONS**

7. The Planning Committee site inspection provides the opportunity for committee members (including where appropriate the local ward member) to be briefed by planning officers on or around an application site. Neither members of the public (including supporters/objectors/parish members) nor the applicant (or the applicant's agents) are permitted to participate in the site inspection.
8. Committee members (including where appropriate the local ward member) will not debate the planning application with either members of the public or the applicant during the course of the site inspection.
9. Committee members (including where appropriate the local ward member) will not debate the planning application with either members of the public or the applicant in the period between the termination of the site inspection and the commencement of the Planning Committee.
10. Committee members (including where appropriate the local ward member) will receive a group presentation from an appropriate planning officer at the outset of the site inspection.

11. Committee members (including where appropriate the local ward member) will be shown by an appropriate planning officer key elements of both the site and its wider environment (as appropriate). Should committee members wish to visit additional parts of the site or the wider environment than those the officer has drawn their attention to they should advise the planning officer before the committee leaves the site and the officer will where there are no reasons for not visiting ensure that these locations are inspected
12. Committee members (including where appropriate the local ward member) will ask the appropriate planning officer to clarify any matters of detail at the end of the group presentation.
13. Committee members (including where appropriate the local ward member) will remain as a single group throughout the full course of the site inspection as set out in points 8 to 10 (inclusive) above.