

CONSTITUTION

PART 10 - CODE OF CONDUCT AND PROCEDURES PLANNING SERVICE

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CODE OF CONDUCT AND PROCEDURES

In respect of the

PLANNING SERVICE

Ashfield District Council
May 2019

FOREWORD

The Council is very much aware of the substantial, and often conflicting, pressures under which Ashfield operates its planning service. It is keen to ensure that the manner in which the Authority operates the planning decision process is open, understandable and fair to all parties involved.

This code has been drawn up in order to regulate and assist elected Members and Officers in carrying out their duties and to inform all involved as to the procedures to be followed.

An external audit of our new system was undertaken by the District Audit, and the Council is pleased to note that they consider our system to be “robust in many ways” and “that there are examples of good practice being used’. Their report also concludes that “although the Council is pro-active and open in its approach, some procedures could be strengthened”. I believe that the amended Code meets this objective.

1. PURPOSE AND STATUS OF THE CODE

- 1.1. This Code has been adopted by Ashfield District Council to regulate and assist Members and Officers in the administration of the planning function. It will guide Members and Officers of the Council in dealing with planning related matters and will also inform potential developers, interested parties and members of the public as to the procedures which will apply.
- 1.2. The local administration of the planning system is always under close scrutiny nationally. Following the code should avoid allegations of improper conduct or practice. This Code sets out Ashfield's practice and procedures that will apply to both Councillors and Officers who will become involved in operating the planning system.
- 1.3. This Code of Conduct will supplement the Council's Code of Conduct contained in the Constitution, and the Code of Professional Conduct of the Royal Town Planning Institute. This Code will provide specific guidance on the standards to be applied in relation to planning related issues.
- 1.4. Planning law requires Members of Local Planning Authorities to determine all planning applications in accordance with the statutory development plan, i.e. our Local Plan, unless material considerations indicate otherwise.
- 1.5. Any reference in the Code to planning applications includes all forms of planning applications for planning consent including, but not limited to, householder, full planning, outline planning, reserve matters, permission in principle listed building, advertisement consent, lawful development certificates, prior notification, removal/variation of conditions, tree preservation orders, and notification of proposed works to trees in a conservation area.
- 1.6. Members also have a duty to take into account any representations made in respect of planning applications, permissions in principle, and as part of the Development Plan preparation process.
- 1.7. The Council has a Local Plan Development Committee for the purpose of overseeing the development and review of the Local Plan for Ashfield. The Committee will discuss both planning strategy and the potential location of development sites. Whilst the group does not have any formal decision making responsibilities and will therefore act as an advisory body to the Council, clearly it will be discussing highly sensitive information which must be treated as confidential.
- 1.8. It is recognised that Members will be approached individually by developers or their agents and by other parties involved in the development process, such as action groups and neighbours, and this Code will assist Members in dealing with such approaches.
- 1.9. Whilst this Code is of an advisory nature, it needs to be recognised that failure to follow the advice without good reason could be taken into account in investigations into possible mal-administration or have implications for the standing of Councillors and professional Officers. The Code will be publicised and made publicly available, and is incorporated into the Council's Constitution.

2. THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1. Councillors and Officers have different, but complementary, roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2. A successful relationship between Councillors and Officers needs to be based upon mutual trust and understanding of each other's positions. It is necessary to ensure that all act in a way, which is not only fair and impartial but is clearly seen to be such.
- 2.3. Both Councillors and Officers are already guided by general Codes of Conduct. The Council's Code of Conduct sets out the duties and responsibilities of Councillors. It is recognised that whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors should not favour 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. Councillors must therefore represent their constituents as a body and vote in the interests of the whole District.
- 2.4. The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake, and opposing views are often strongly held by those involved. Whilst Councillors should take account of those views, they should not favour any person, groups, Companies or locality, or put themselves in a position where they appear to do so. Councillors who do not feel they can act in this way should consider whether they should serve on the Planning Committee or on the Local Plan Development Committee. Further guidance is available from the Assistant Director - Planning on this matter if required.

3. MEMBER TRAINING

- 3.1. Planning legislation and guidance can be complex and it is recognised that training is essential. Training seminars, complemented as necessary by updating reports, will take place for all Planning Committee and Local Plan Development Committee Members and will deal with the full planning process, including the development plan, development management decisions and enforcement issues, etc.

POLICY 1: The council will ensure that members receive initial training prior to serving on the planning committee, or the Local Plan Development Committee. In addition, members shall be updated regularly as to any changes which take place in legislation, policy guidance or procedures.

4. GIFTS AND HOSPITALITY

- 4.1. On occasion, elected Members and planning Officers may be offered gifts or hospitality by an applicant or prospective applicant. Acceptance of such is not acceptable (other than minor refreshments) and it is of utmost importance that impartiality and the semblance of such is maintained.

POLICY 2: Councillors and officers shall not accept any gift or hospitality (other than minor refreshments) and will record all offers in a register to be kept by the council's monitoring officer. This policy applies in a planning

context and is additional to the rules applicable to gifts and hospitality under the council's code of conduct.

5. DECLARATION AND REGISTER OF INTERESTS

- 5.1. The declaration and registration of interests is of obvious importance to the integrity of the planning process, for both Members and Officers. The Council's Code of Conduct set out requirements and guidance on declaring interests and the consequences of having such interests. These must be followed scrupulously. It is essential that not only should impropriety be avoided but also that there should be no appearance of, or grounds for suspicion of, improper conduct.

POLICY 3: A register of members' interests is maintained by the council's monitoring officer. In addition, under this code if the breach is in a planning context the standards and personnel appeals committee shall consider making representation to the council as to the suitability of individual councillors to continue to sit on the planning committee, or the Local Plan Development Committee.

- 5.2. Under the Council's Code, interests are categorised as Disclosable Pecuniary or **Personal Interests and/or Non-Registrable Interests** . Some such interests could arise through family, friends, clubs, voluntary bodies, etc.

Disclosable Pecuniary or Personal Interests

A Disclosable Pecuniary or Personal Interest is an interest in relation to a Member if it is of a description set out in the Code of Conduct for Members within Part 5 of this Constitution and either: -

- a) It is an interest of the Members'; or
- b) It is an interest of (i) the Member's spouse or civil partner (ii) a person with whom a Member is living as Husband and Wife, or (iii) a person with whom a Member is living as if they were Civil partners and the Member is aware that that other person has the interest.

Where a matter arises at a meeting which relates to a Disclosable Pecuniary Interest, the Member shall declare the interest and not participate in a discussion or vote on the matter and must withdraw from the meeting room or chamber during the whole consideration of the item unless a dispensation have been sought and granted.

Non-Registrable Interests

You have a Non-Registrable Interest in an item of business of the Council where: -

- a) A discussion in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you, or a member of your family, or a person with whom you have a close association, to a greater extent than it would affect the majority of the inhabitants of the ward or electoral area for which you have been elected or otherwise of the Council's administrative area; or

- b) It relates to or is likely to affect any of the interests listed in the Schedule of Disclosable Pecuniary Interests in the Code of Conduct, but in respect of a member of your family (other than your spouse or civil partner) or a person with whom you have a close association

and that interest is not a Disclosable Pecuniary or Personal Interest.

The following decisions affect every Member. You may take part in these decisions unless you fall into one of the exceptions set out in the list:

- i) Housing, where you are a tenant of your authority unless those functions relate particularly to your tenancy or lease;
- ii) School meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- iii) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- iv) An allowance, payment or indemnity given to members;
- v) Any ceremonial honour given to members; and
- vi) Setting council tax or a precept under the Local Government Finance Act 1992.

- 5.3. The declaration of interest demands the exercise of well-informed judgement and training seminars are made available for all Members by the Monitoring Officer. In this way, Members may gain a better understanding of whether an interest is sufficient to prevent him or her taking part in decisions relating to planning matters.

POLICY 4: Councillors and officers will not use, and will clearly demonstrate that they have not used, their position to further a private or personal interest, rather than the general public interest, or give grounds for such suspicion. Whilst guidance will be given through seminars, the responsibility for declaring an interest lies with the individual concerned.

- 5.4. Planning applications or representations for development as a part of the Development Plan process, submitted by Councillors, and their close friends or relatives, can give rise to suspicions of impropriety. Whilst it is legitimate for such proposals to be submitted, it is vital that they are handled in a way that gives no grounds for accusations of favouritism.

POLICY 5: Councillors who make their own planning submissions, act as agents for others, object to or support planning proposals, in relation to which they may be seen to have some form of interest shall play no part in the decision making process for that proposal. The Council's Monitoring Officer shall be informed as to such proposals and any planning application shall be decided by the planning committee process.

- 5.5. It is important that Officers of the Council should not act as agents for the submission of planning applications in Ashfield, other than those associated with their Council duties. It is particularly important that in the event of Officers within the Planning Teams either submitting planning applications in relation to their own property or making any representations relating to developments affecting their property that they will need to adhere to procedural control.

POLICY 6: Officers of the Council will not act as agents for the submission of applications, or representations

Regarding any planning matters within Ashfield. In the event of any submissions from officers within the planning teams for their own property, they will inform the Council's Monitoring Officer and play no part in the decision making process. Planning applications falling into this category will be determined by the planning committee.

6. LOBBYING OF ELECTED MEMBERS

- 6.1. It is recognised that lobbying is a normal and perfectly proper part of the political process. As the Nolan Report states, "it is essential for the operation of the planning system that local concerns are properly aired. The most effective and suitable way that this can be done is via the local representatives".
- 6.2. However, such lobbying can, unless care and common sense are exercised, lead to accusations such that the impartiality and integrity of a Council is called into question. When being lobbied, Councillors and Members of the Planning Committee or the Local Plan Development Committee, in particular, should take care in expressing an opinion which may be taken as indicating that they have already made their minds up on an issue before they know all the evidence and arguments.

POLICY 7: Members of the committee or group, on being lobbied, should restrict themselves to procedural advice, including suggesting that those lobbying should write to the Assistant Director - Planning in order that their opinions can be taken into account. In the event of members expressing an opinion, they should make it clear that they are stating a preliminary view only and that it will only be possible to reach a final decision after having considered all the relevant evidence and arguments.

- 6.3. A Planning Committee Member who represents a ward affected by a controversial application may decide to go public in clear support of a particular outcome. In such cases, it will be very difficult for that Member to argue at the Committee meeting that he/she has carefully weighed up all the evidence and arguments presented - perhaps in some respect for the first time. Although the Members may not have a disclosable pecuniary or personal interest, in the above circumstances such a Member should not take part in the decision making process.

POLICY 8: Any Planning Committee member, who publicly expresses support or opposition to any planning application prior to formal determination, will make an open declaration. The member is entitled to address the committee but must leave the room and not take part in the decision making process.

POLICY 9: Planning committee members should avoid organising support for, or opposition to, any planning application.

- 6.4. It is considered necessary that Members should make records as to any meetings or discussions they may have in connection with any planning matters. Standard forms will be supplied for record purposes and should be returned to the Assistant Director - Planning.

POLICY 10: Councillors will prepare notes of any meetings or discussions they may have in relation to lobbying on planning matters. Such notes will be placed in the relevant planning file as a matter of public record.

7. PRE-APPLICATION DISCUSSIONS

a) OFFICERS

- 7.1. Discussions between a potential applicant and a Council Officer prior to submission can be of considerable assistance to both parties and is positively encouraged by the Council. However, care is needed, as it is easy for this process to be seen, especially by objectors, as lobbying.
- 7.2. There is a paid, pre-application discussion process, with clear guidelines. The guidelines apply to any discussions which take place prior to actual determination of any planning application.

POLICY 11: Planning Officers will meet and discuss prospective submissions with applicants and/or their agents. Advice will be given as to relevant planning policies and any material considerations and suggestions as to how a submission may be improved, as appropriate.

POLICY 12: It will always be made clear that advice given will not bind the council in its ultimate decision and that any views given are personal and provisional. Officers should also make it clear as to their role in the decision making process.

POLICY 13: A written note shall be made of all meetings and a follow up letter sent whenever documentary material has been left for consideration. For public record.

b) ELECTED MEMBERS

- 7.3 Elected Members should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should advise prospective applicants to contact a Planning Officer for advice on both merits and procedures. In the event of Members meeting applicants or agents to discuss planning proposals they should ensure that a Planning Officer is also present, who will be responsible for detailed records of the meeting.

POLICY 14: Members of the Planning Committee shall not discuss planning applications with applicants or agents unless a planning officer is also present.

The fact that Councillors have discussed a planning proposal with applicants, agents, or objectors must be made clear at the determination stage. It is still possible to participate in discussions and voting on a subsequent proposal if it is clear that the councillor retains an open mind.

POLICY 15: Notes of any pre-application, or post-submission, discussions involving elected members will be recorded on the planning file as a background paper for the purposes of the access to information act, and in those cases involving Planning Committee decisions the member will disclose the fact to the meeting.

8. LOCATION OF MEETINGS WITH INTERESTED PARTIES

- 8.1. Whenever possible pre-application meetings, or meetings during the processing of applications will be carried out on Council premises. There may of course be occasions when a meeting on an application site may be the most sensible way forward. In any event records of such will need to be maintained on the planning file in accordance with GDPR.

Policy 16: It is essential that all formal decisions are made on council premises. Details of any meetings off council premises will need to be recorded on the planning file and will include locational facts.

9. DECISION PROCESS

- 9.1. Ashfield determines a high proportion of applications under delegated authority. It is nevertheless essential to seek continual improvement in processes, procedures and ultimately the quality of service to the community. Best practice and relevant advice promotes “by exception” approach effectively meaning decisions are delegated save for exceptional circumstances.

POLICY 17: A Planning Committee agenda system is operated in accordance with the rules listed below. Those applications not required to be determined via the committee system will be dealt with by the Assistant Director - Planning - or his/her designated deputies.

- a) All Members of the Planning Committee will receive a copy of the list of planning applications registered in the previous week.
- b) If Members wish to make any comment on any application on the list, they will need to do so either in writing or via e-mail to the Assistant Director - Planning and the Planning Administration team. Any subsequent request for call in to Planning Committee must be received within the time line indicated particular on the weekly list and must give material planning reasons for call in. There will be different timescales for different types of application.
- c) On receipt of comments in accordance with point (b), the Member will be contacted by the Assistant Director - Planning, the Planning Team Leader or the responsible Case Officer. In cases where Member and views of the Assistant Director - Planning or the Executive Director of Place on the proposals differ and agreement cannot be reached or a Member still insists on its inclusion on the Planning Committee Agenda, that particular planning application would be the subject of a report to the first available Planning Committee. It is expected that the Member referring an application to Planning Committee will address the Committee outlining the relevant issues. Due to time constraints, and an automatic presumption in favour of the development in the event of a late response, it may not be possible to take certain types of

applications (e.g. telecommunications, and agricultural development) or a permission in principle to Planning Committee e.g. telecommunications, and agricultural development, in such a case the Chair and/or Vice Chair of the Planning Committee will be advised and the proposal dealt with via the delegation process.

- d) Planning applications which have not been the subject of written or e-mail comments from Members within the prescribed period will be determined by the Assistant Director - Planning, or designated deputy in accordance with the Planning Scheme of Delegation except:
1. One which any Member of the Council requests in writing, giving a material planning reason for their call-in, which is received within 21 days of the circulation of details of the application, should be the subject of consideration by the Planning Committee.
 2. Would be a significant departure from the adopted Development Plan.
 3. In the opinion of the Assistant Director - Planning or those with such delegated authority is:
 - Potentially controversial
 - Likely to be of significant public interest
 - Is subject to significant material objections which have not been addressed, resolved or mitigated against to his/her satisfaction
 4. Is submitted by, or on behalf of, a Councillor of the Authority (or their spouse/partner) or by any member of staff of the Place and Communities Directorate (or their spouse/partner) that relate to property/land in their ownership.
 5. Is submitted by/on behalf of the Council for its own development, except for the approval of routine minor developments (to be determined by the Assistant Director - Planning or Executive Director of Place).
 6. All determinations of applications, and other related matters by way of delegated powers are subject to the following limitations:

No planning application, or other related matter shall be determined under delegated powers prior to the completion of all necessary statutory publicity and consultation arrangements.
 7. All Planning Decisions will be published on a monthly basis and distributed to all members.
- e) Any Member appointed to the Planning Committee and present at a meeting must hear all of the debate on any application before reaching a decision. Therefore, any Member finding it necessary to leave the meeting room during the course of debate or arriving in the meeting after the commencement of the discussion will be required to abstain from voting on the application.

10. PUBLIC INVOLVEMENT IN THE PROCESS

- 10.1. In order to make the development management system as acceptable and user friendly to the public as possible, and to make the system more supported by its users, it is, of course, essential that members of the public are as fully involved as possible in the process.
- 10.2. The establishment of public consultation procedures on application proposals is essential, in accordance with clear guidelines. Compulsory publicity requirements exist for planning applications and the Council has adopted a formal policy in respect of this. Full details of such are included in Appendix 1 to this Code.
- 10.3. Under the provisions of the Planning (Compulsory Purchase) Act 2004 the Council prepares a Statement of Community Involvement which covers the consultation proceedings to be adopted on the new Development Plan Documents, Supplementary Planning Documents, and other planning applications.

POLICY 18: Public Consultation on all Planning applications will be carried out in accordance with the council's publicity policy and adopted statement of community involvement as appropriate and recorded and retained as updated by GDPR.

- 10.4. The District Council has introduced a facility whereby members of the public and applicants, or their agents, can address the Planning Committee in the cases when the application is included on the agenda. Formal procedures have been adopted to regulate this issue and the "Have your say on planning applications" document that details the procedure is available on the Council's website or on request from the Planning Administration Team. The document is attached at Appendix 2.

POLICY 19: The opportunity for applicants, local residents, parish councils and neighbourhood forums to make a verbal presentation to the planning committee exists in all cases on the planning committee agendas. A formal code of practice had been agreed for the benefit of those involved. Speakers will be expected to adhere to these provisions, which are detailed in our "Have your say on planning applications" document.

- 10.5. The Committee process is recorded and retained in accordance with GDPR.

11. COUNCIL DEVELOPMENT

- 11.1. Whilst it is perfectly legitimate for the Council to submit planning applications for its own development, or in respect of land that it owns, such can easily give rise to suspicions of impropriety. Such will be dealt with in exactly the same way as other submissions.

Policy 20: Proposals for a Council's own development will be treated in the same way as those by private developers.

12. SITE VISITS

- 12.1. Committee site visits should only be used in exceptional circumstances, as they can cause both delay and additional costs. (However, it is accepted that such can be a useful element in the decision making process. Particularly if taken in advance of a Planning Committee.) They have to be carefully organised and subject to formal procedures. A visit should only be necessary if the impact of the proposed development is difficult to visualise, if there has been a good reason why the comments of the applicant or objectors cannot be expressed adequately in writing, or the proposal has been particularly contentious.
- 12.2. Records of any site visits will be kept on the planning files.
- 12.3. In the event of Planning Committee Members wishing to call a site visit in relation to an application included on the Planning Committee agenda, he/she must notify the Assistant Director - Planning or the Planning Team Leader.

In the event of a Planning Committee Member not being able to attend the formal site visit, he or she can still visit the site individually to assess the circumstances. However, care needs to be taken to avoid being lobbied during such. If lobbying does take place then Members are reminded of the relevant policies contained within this Code.

The following rules will apply to the undertaking of Site Visits.

POLICY 21: Site visits will be attended by Planning Committee members and planning officers only, save for “call in” applications where the member making the request will be invited. Formal site visits will be arranged to take place prior to the planning committee meeting due to consider the application.

POLICY 22: Planning Committee members, who cannot attend a specific site visit, if they consider it to be appropriate, can visit the site prior to any consideration by the planning committee. Such visits shall be undertaken in accordance with policies relating to lobbying.

It is of course still possible that following debate regarding a planning application at Committee, Members will identify a requirement to visit a site in order to fully assess the impact of a proposal, or to resolve any areas of a disagreement. Under the circumstances it may be decided to defer consideration for a formal site visit.

POLICY 23: Exceptionally site visits may be agreed by the Planning Committee considering the application. In these cases, the justification for such will be minuted, and the application will be reconsidered at the next planning committee meeting.

- 12.4. It is of importance that Members attending site visits are seen to be acting impartially and it is therefore considered to be necessary to have an agreed protocol. This will incorporate the following elements.

POLICY 24: Whilst accepting that where members need to enter onto private land that the applicant or his/her representative may need to be present, members shall not listen to any representations concerning the application

whilst undertaking the site visit, either from the applicant, or from any other interested parties, including objectors or supporters of any application.

POLICY 25: In exceptional circumstances the Chairman, (or in his/her absence the Vice-Chairman) shall, after consultation with the Assistant Director - Planning, have the right to invite persons, in relation to specialist matters, to the site visit as felt to be appropriate in order to answer such questions as members may wish to raise.

POLICY 26: A Member of the Council, who is not a member of Planning Committee, may participate in site visits only with the prior consent of the Chairman (or in his/her absence the Vice-Chairman) of the Planning Committee (see Policy 21 in relation to the right of attendance by the member calling in an application).

POLICY 27: The site visit itself will be an opportunity for Members to inspect the site in order to assess the impact of the planning application and to assist Members in their formal deliberations at Planning Committee. The site visit itself has no mandate regarding any formal decision, and members should use such as an information gathering exercise only.

13. OFFICER'S REPORTS TO COMMITTEE

- 13.1. It is of importance that the Assistant Director - Planning shall submit full reports, together with recommendations on all planning proposals considered by the Planning Committee. This will include a written summary of all representations received prior to the preparation of the Committee agenda. The following policies will apply to this process.

POLICY 28: The Officer report shall represent the professional views of the Assistant Director - Planning, and Members should not attempt to influence such in any way.

POLICY 29: Reports shall be accurate and cover, amongst other things, a summary of all comments received, details of development plan policies and of site or related planning history, and any other materials considerations. They should contain a written recommendation of action clearly justified by the technical appraisal. In the event of a recommendation contrary to the development plan the material considerations which justify this will be clearly stated.

POLICY 30: Oral reporting shall only be used to update a report, and carefully minuted with reference to the speaker and a summary of the matters referred to.

14. LATE INFORMATION

- 14.1. Amended plans submitted to overcome an identified objection or because of a change of intention by a developer, can only be taken into account if they are received in time for the amendment to be fully assessed by the Council's officers. Further consultation may be necessary. Only minor amendments can be taken into account after the Agenda has been printed.

POLICY 31: Amended plans, received after publication of the committee agenda, incorporating substantial amendments to a proposal will not be taken account of in reaching a formal decision

- 14.2. The Authority sometimes receives letters, for example from objectors, relating to applications, after the publication of the Planning Committee agenda. Whenever possible they will be dealt with by way of a verbal report to the Committee. However, items received at a very late date cannot be assessed, and a cut-off point is considered to be reasonable.

POLICY 32: The Council's policy for dealing with late items relating to planning applications to be determined by the committee system shall be as follows:

- a) Comments received after preparation of the Committee agenda, will be the subject of a verbal summary by the Assistant Director - Planning.
- b) Late items received after 10.00 a.m. on the day prior to the day of the relevant Committee meeting will not be referred to, and no action taken thereon.

COUNCIL MEETINGS

These should be conducted as per agreed standards as detailed in the constitution.

CIRCULATION OF UNOFFICIAL DOCUMENTS AT PLANNING COMMITTEE

- 14.3. Members should not attempt to report to Committee with new information that may have been given to them, by applicants or a third party, which has not already been submitted to the Assistant Director - Planning. In the event of Members obtaining this type of information they should ensure that such is passed on to the Assistant Director – Planning at the earliest opportunity to enable such to be properly assessed and taken account of. Not to do so could perhaps lead to the Committee being misled, or the decision being challenged.

POLICY 33: The only information which may be taken into account in determining a planning application is that formally submitted to the Assistant Director - Planning.

15. THE PLANNING DECISION

- 15.1. Given that the point at which a planning decision on any application or taken by the Planning Committee cannot occur before the Committee meeting, when all information is available, any political or other meeting prior to the Committee meeting should not be used to decide how Councillors vote. The view of the Ombudsman is that the use of such procedures would amount to maladministration, and there is also the possibility of a legal challenge being made.

POLICY 34: Planning decisions will only be reached by the determining Planning Committee, or by the officer delegation process.

16. ROLE OF COUNCILLORS NOT ON PLANNING COMMITTEE

- 16.1. It is recognised that elected Members not on Planning Committee may wish to speak at the Committee meeting. In these cases the prior approval of the Chairman or in his/her absence the Vice-Chairman of the Planning Committee will need to be obtained. Any such Members will not be able to participate in the formal decision process itself and they should avoid the situation where they are seen to be lobbying fellow Councillors.

POLICY 35: Councillors not on the Planning Committee will exceptionally, and with the prior consent of the Chairman, (or in his/her absence the Vice-Chairman) be allowed to make representations to the Planning Committee.

17. DECISIONS CONTRARY TO OFFICER RECOMMENDATIONS AND/OR THE DEVELOPMENT PLAN

The law requires that where the development plan is relevant decisions should be taken in accordance with it unless material considerations indicate otherwise. Applications not in accordance with the development plan will be advertised as such. If it is recommended by the Assistant Director - Planning to approve such an application the material considerations leading to this conclusion should be identified in the Committee report and how they justify overriding the development plan clearly demonstrated. The application may need to be referred to the Secretary of State.

POLICY 36: Where the Planning Committee is mindful to approve a planning application which constitutes a major departure from the development plan or any significant departure to green belt policy, the application will be referred to the Secretary of State prior to the issuing of the decision.

- 17.1. If the Planning Committee makes any decision contrary to the Officer recommendations, a detailed minute of the Committee's reasons for such will be made, and a copy placed on the planning file.
- 17.2. Where a Planning Appeal results and such is dealt with by way of Public Inquiry the Council will require an elected Member to act as a witness.

POLICY 37: In all cases where the decision of the Planning Committee conflicts with a recommendation from the Assistant Director - Planning, the reasons for the decision shall be minuted. The authority's minutes shall include the names of those proposing and seconding the motion to determine the application and those voting for that motion, those voting against and those abstaining.

POLICY 38: In the case of the holding of a Public Inquiry following a decision by the planning committee to overturn a recommendation by the Assistant Director - Planning, evidence will be given by an elected member. The chairman of the planning committee will invite the member proposing the motion against the Assistant Director - Planning's recommendation to perform this duty.

18. PLANNING AGREEMENTS/PLANNING OBLIGATIONS

- 18.1. Planning agreements have been used by the Council for many years, both to secure off-site infrastructure and in connection with our open space, and transport improvement commuted payments policies. The Local Plan includes relevant policies. It is considered that details as to the basis and nature of such agreements should be fully available to the public, in order to maintain an open system.
- 18.2. Developers making commuted payments should be entitled to information as to both the projects to which their contribution will be used, and when projects are undertaken, in order to operate a transparent system.

19. RECORD KEEPING AND PUBLIC ACCESS TO INFORMATION

- 19.1. In order that complaints may be fully investigated, and in any case as a matter of good practice, record keeping should be complete and accurate. Every planning application file will contain an accurate record of events throughout its life subject to GDPR. It should be possible for someone not involved to understand what the decision was and how it was reached and the file will be made available for inspection to members of the public by prior appointment.

POLICY 40: All Planning applications files will contain a complete and accurate record of relevant issues, consultations and discussions, and will be available for public inspection with a prior appointment. (subject to GDPR)

20. COMPLAINTS

- 20.1. Any complaint received in writing about the way in which a planning application, or other planning matter has been dealt with in terms of procedures or fairness will be looked into fully through the appropriate procedures. The fact that someone may disagree with a decision the Council has reached, is not in itself a complaint which will necessitate investigations, although Officers will endeavour to explain the reasons for the Council's decision in any particular case.

POLICY 41: Any written complaints regarding the way in which a planning decision has been reached will be investigated under the council's complaints procedure.

APPENDIX 1

PUBLICITY POLICY FOR PLANNING APPLICATIONS AND PERMISSION IN PRINCIPLE

1. MAJOR DEVELOPMENT

Major Development includes:-

- a) 10 or more dwellings or, if this is not known, where the site area is 0.5 hectares or more; and
- b) For all other uses, where the floor space to be created is 1,000 square metres or more, or the site area is 1 hectare or more.

For developments falling within the "Major Developments" category, the Council will advertise the application in a local newspaper, and either by a site notice or through neighbour notification.

2. MINOR DEVELOPMENT

This relates to all development other than major development and the Council will either post a site notice or undertake neighbour notification.

3. PERMISSION IN PRINCIPLE

Permission in principle can be granted for residential development of land through:

- a) Sites brought forward by the Council for permission in principle from Part 1 of the Brownfield Register, or
- b) An application for permission in principle on residential site of nine dwellings or less. (In force from 1st June 2018).

4. OTHER PUBLICITY ARRANGEMENTS

The Government has revoked article 11 of the General Development Order which previously required applicants to advertise "bad neighbour" uses, e.g. Scrap Yards, Coal Storage, etc. That responsibility is now passed to the Local Planning Authority and in paragraph 14 of Circular 15/92, the Government expects Authorities to advertise the following types of development:-

- a) Those affecting nearby property by causing noise, smell, vibration, dust or other nuisance;
- b) Those attracting crowds, traffic and noise into a generally quiet area;
- c) Those causing activity and noise during unsocial hours;
- d) Those introducing significant change, for example the erection of particularly tall buildings;

- e) Those resulting in serious reduction of loss of light or privacy beyond adjacent properties;
- f) Those affecting the setting of an Ancient Monument or archaeological site;
- g) Those proposals affecting trees, subject to Tree Preservation Orders.

In such circumstances, the application will be publicised by way of an advertisement in a local newspaper, and either by a site notice or through neighbour notification.

5. LISTED BUILDINGS AND DEVELOPMENT IN CONSERVATION AREAS

It will also continue to be necessary to advertise both in the local newspaper, and by means of a site notice, any development affecting a Listed Building or the character or appearance of a Conservation Area and any development which affects a public right of way.

6. AMENDMENTS TO PLANNING APPLICATIONS

- a) Minor amendments, such as altered windows, or material details, etc. to be dealt with without further publicity.
- b) For amendments, other than minor amendments, such as an increased development, change in dwelling type, etc. - a new planning application will be requested and consultation undertaken in accordance with the Council's policy.
- c) The categorisation of amendments shall be at the discretion of the Assistant Director - Planning or the Development Team Leader.

7. DEFINITION OF NEIGHBOURS

In terms of defining the extent of neighbour notification, this will vary according to the type of development involved, as follows:-

Type A Extensions/Plant/Alterations/Minor Operations - Residential and Commercial

- a) For Extensions/Plant/Alterations/Minor Operations on the rear of a property, consult those properties adjoining the side and rear boundaries;
- b) For Extensions/Plant/Alterations/Minor Operations on the side of a property, consult the properties directly to the rear, the property or properties adjoining the boundary adjacent to the extension and those directly across a highway, if such exists;
- c) For Extensions/Plant/Alterations/Minor Operations on the front of a property, consult those properties adjoining the side boundaries and those directly across a highway if such exists;
- d) For Extensions/Plant/Alterations/Minor Operations on the periphery of a property or site, consult those properties adjacent to the development.

Type B New Development - Residential and Commercial

For new development, on an undeveloped site, consult all those properties adjoining the application site including any directly across any highway.

Type C Changes of Use

For change of use applications, consult all those properties adjoining and adjacent to the site including those directly across a highway.

Type D Other Development

For all other types of application, it is considered appropriate to consult those properties which adjoin the application site, which, at the discretion of the Assistant Director - Planning or the Planning Team Leader, may also include those across a highway.

In all cases, consultation to adjoining properties shall relate to occupied residential or commercial properties and not to the owner of land or buildings.

Type E Permission in Principle

There is no requirement in the PiP Order to consult neighbours. The requirements are to publish on the website and put up a site notice for not less than 14 days. (PiP Order Article 5G (3)).

HAVE YOUR SAY ON PLANNING APPLICATIONS

INTRODUCTION

The District Council is committed to extending Public Involvement in the Planning Process. The Council currently consults local residents and commercial enterprises on planning applications by individual consultation letter, the placing of a notice on site and by advertising the application in the press.

Any comments received are then taken into account in dealing with planning applications. This means that the Council decides many of the less contentious planning applications by a scheme of delegation. The Assistant Director - Planning or designated officers determine the vast majority of applications. The more complex proposals and applications that cannot be considered under the scheme of delegation are referred to the Planning Committee which meets approximately every 4 weeks.

The Council provides an opportunity for public speaking on those applications determined by the Planning Committee. This leaflet explains the issues and procedures which you need to be aware of if you wish to speak to the Planning Committee.

Can I Speak to the Committee?

If you have written to the Council either supporting or opposing a planning application which is to be considered by the Planning Committee, and your comments have been received prior to the agenda being published, then you will be invited by letter to speak.

Only one speaker in support, a resident or the applicant/agent, and one resident opposing the proposal will be able to speak. Where there is more than one person opposing or supporting the proposal it will be necessary for each group to appoint a single spokesperson. If you are a representative of a parish council or neighbourhood forum which has made a representation you will be provided with the opportunity to speak. If the application has been dealt with by way of delegation then the opportunity does not arise.

What Can I Speak About?

The Council can only consider "material considerations" when deciding planning applications. Examples of these are planning policies in the Ashfield Local Plan Review (2002), government advice and policy, the impact on your residential amenity, highway safety and traffic, noise and disturbance, smell, design and external appearance, the impact on Listed Buildings, Conservation Areas and trees etc.

You should not make reference to non-planning issues such as private property rights, covenants, competition, moral issues, loss of view and property value, as these cannot be taken account of. If you feel you need advice on what issues are relevant in deciding planning applications then please contact one of the Planning Officers in the Council's Development & Building Control Section.

How Do I Arrange to Speak?

As an applicant or a resident who has written to the Council about an application you will be informed, in writing, if a particular application is to be considered at a Planning Committee. You will normally have about a week's notice of the Committee meeting. You will then need to register your wish to speak with the Democratic Services Team by telephoning 01623 457317 by 4pm two working days before the Committee. Alternatively, you can Email your request to speakplanning@ashfield.gov.uk.

However, you must leave both a telephone number and your postal address. If the "slot" has already been allocated then you will be referred to the allocated speaker to enable you to make a satisfactory arrangement.

Late requests to speak will not be considered. The Planning Committee meetings are usually held in the Council Chamber, Kirkby in Ashfield and will start at 10:00am. You should arrive by 9:45am and confirm your intention to speak to the Democratic Services Officer who will be present. You must have confirmation that you have been allocated a slot to speak.

How long will I be able to speak for?

Each registered speaker will be allowed a maximum of 5 minutes and this will be carefully controlled by an Officer of the Council. If you take longer than 5 minutes then you will be asked to draw your comments to an end.

When Can I Speak?

Planning Applications are considered just after the meeting commences. Normally the Chairman will introduce each planning application and an officer will outline the proposal and advise the Committee of any late information. You will then be invited to address the Committee from the front of the Chamber.

In cases where both an objector and the applicant wish to speak the Committee will listen to the speaker objecting to the proposal first followed by the applicant or agent. Facilities are available for you to electronically display any supporting evidence if you so wish; but any other form of illustrative material is discouraged. You will not be able to hand out documents, illustrations etc. at the meeting.

Once representations have been made there will be no further opportunity to speak. You will not be able to ask Councillors any questions or join in the debate after your presentation but Committee Members will be offered the opportunity to clarify any matters raised by yourself if required. An objector however, cannot ask questions of the applicant and vice versa. If you require any information on speaking to the Planning Committee then do not hesitate to contact the Democratic Services Team on 01623 457317.

Please bear in mind if you refer to non-planning matters the Chairman may ask you to stop. Furthermore, it is always wise to choose your words carefully, and to avoid any reference to other people which could be defamatory.

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