



Ribble Valley  
Borough Council

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# **CODE OF CONDUCT FOR PLANNING**

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## **CONTENTS**

1. Introduction
2. When the Code applies
3. Relationship with the Members' Code of Conduct
4. Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)
5. Contact with Applicants, Developers and Objectors
6. Lobbying of Councillors
7. Lobbying by Councillors
8. Officers
9. Site Visits
10. Decision Making
11. Issue of Decisions
12. Member Training

## **1 Introduction**

- 1.1 This Code sets out the practices and procedures that should be followed in respect to all planning matters. The aim of the code is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.2 One of the key purposes of the planning system is to regulate the development and use of land in the public interest. The role of a Member of the Planning Authority is to make decisions openly, impartially, with sound judgement and for justifiable reasons. Members are also democratically accountable decision-takers who have been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with their political views and policies **provided** that they have considered all material considerations and have given fair consideration to the relevant points raised.

## **2 When the Code Applies**

- 2.1 This code applies to Members at all times when involving themselves in the planning process. This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies equally to planning enforcement matters or site-specific policy issues as it does to planning applications.
- 2.2 **If Members have any questions about the application of this Code to a particular situation, you should contact the Monitoring Officer for advice as soon as possible and in any event before any meeting takes place.**

## **3 Relationship with the Members' Code of Conduct (standards)**

- 3.1 Members must apply the rules of the Members' Code of Conduct in the first instance. The rules in this Code seek to explain and supplement those rules for the purposes of planning. It is important that Members comply with both, and a failure to do so may result in:
- (a) A risk of proceedings on the legality or maladministration of a planning decision; and
  - (b) A standards complaint/finding against you, or if the matter relates to a Disclosable Pecuniary Interest ("DPI"), a complaint being made to the police to consider criminal proceedings.
- 3.2 **If Members are in any doubt about the provisions of this Code or their application they should contact the Monitoring Officer for advice.**

### **Declaration of Interests**

- 3.3 Members must declare the existence and type of interest they have in any planning application and act as required by the Code of Conduct for Members in

respect of any planning matter.

3.4 The principle of integrity as defined by the Committee for Standards in Public Life is that *“Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships”*. It is therefore advisable with regard to any application where a Member has an interest that they:

- (a) Do not seek or accept any preferential treatment or place yourself in a position that could lead the public to think they are receiving preferential treatment, because of their position as a councillor. This would include where they have a DPI or other interest in a proposal, using their position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- (b) Note that whilst they are not prevented from seeking to explain or justify a proposal in which they may have a conflict of interest, to an officer (in writing or in person) the Code of Conduct may place additional limitations on them in representing that proposal.
- (c) Notify the Monitoring Officer in writing where it is clear that they have a DPI or other personal conflict of interest and note that:
  - Where possible, they should send that notification letter no later than submission of the relevant application.
  - The application will always, (as set out in the Planning and Development Scheme of Delegation), be determined by Committee and not by an officer under delegated powers.
  - They must not get involved in the processing of the application; and
  - It is advisable that they employ an agent to act on their behalf in respect of the application when dealing with officers and in public speaking at Committee.

#### **4 Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)**

4.1 It is important that Members do not fetter their discretion and your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering of discretion in this way and taking part in the decision would put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- 4.2 Whilst Members are not expected to have an “empty mind”, and elected Members are entitled, and often expected to have expressed views on planning issues, they must keep at the forefront of their mind that, when they come to make the decision, they:
- (a) Must keep an open mind and hear all the evidence before them, including the officers’ presentation of the facts, their advice and the arguments from all sides;
  - (b) Are not required to cast aside views on planning policy they held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
  - (c) Are only entitled to take into account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - (d) Are to come to the decision after giving what they feel is the right weight to those material considerations.
- 4.3 Members should ensure they explain when they do not intend to speak and/or vote as a member of the Committee because they will be perceived as having judged (or reserved the right to judge) the matter elsewhere, so that this can be recorded in the minutes.
- 4.4 Members may exercise their speaking rights as a Ward Councillor where they have represented their views or those of local electors and fettered their discretion, but they do not have a DPI or other personal conflict of interest. Where they choose to do so they must:
- (a) Advise the Democratic Services Officer or the Chair of the committee that they wish to speak in this capacity before commencement of the item; and
  - (b) Remove themselves from the meeting for the duration of that item.

The above will be recorded in the minutes of the meeting.

## **5 Contact with Applicants Developers and Objectors**

- 5.1 If Members are approached by any person with regard to a proposal, they should refer them to officers on procedural or technical matters, or encourage them to make an application for pre-application advice.
- 5.2 Members should avoid, where possible, meeting with applicants (or their agents), developers or groups of objectors. Where a member feels that a formal meeting would be useful in clarifying the issues, this should be done, through a request to the Head of Development Management and Building Control. Officers will then

be able to ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and that the record of the meeting is disclosed when it is considered at committee.

- 5.3 With regard to any other contact with Applicants, Developers and/or Objectors, Members should ensure that they:
- (a) Follow the rules in respect to lobbying set out in section 6 below.
  - (b) Consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - (c) Report to the Head of Development Management and Building Control any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and their involvement in them, and ensure that this is recorded on the planning file.

### **Presentations by applicants/developers**

- 5.4 Members should not attend a planning presentation by an applicant (their agent) or a developer without having requested and ensured that an officer will attend with them.
- 5.5 If a member does attend a presentation in accordance with 5.4 above, they can ask relevant questions for the purpose of clarifying your understanding of the proposals.
- 5.6 Members should remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be at any subsequent meeting of committee.
- 5.7 Members should always be live to the fact that a presentation is a form of lobbying and, whilst they may express any view on the merits or otherwise of the proposal presented, they should never state how they or other Members would intend to vote at committee.

## **6 Lobbying of Councillors**

- 6.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, will often seek to influence the decision by an approach to the Ward Member or to a Member(s) of the Planning Committee. However, such lobbying can lead to the impartiality and integrity of a member being called into question and Members should be aware that the information provided may represent a selective and incomplete picture of the relevant considerations in respect of a planning matter. It is important that care and common sense are exercised by all parties involved.

Members should:

- (a) explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality and therefore their ability to participate in the Committee's decision-making, to express an intention to vote one way or the other, or such a firm point of view that it amounts to the same thing.
- (b) remember that their overriding duty is to the whole community not just to the people in their Ward and, taking account of the need to make decisions impartially, they should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- (c) not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is kept to a minimum, its acceptance is declared as soon as possible, including its addition to their register of interests where relevant.
- (d) pass on any lobbying correspondence received, to the Head of Development Management and Building Control, as soon as possible following receipt.
- (e) promptly refer to the Head of Development Management and Building Control any offers made to them of planning gain or constraint of development, through a proposed Section 106 planning obligation or otherwise.
- (f) Inform the Monitoring Officer, if they consider they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

6.2 Unless a Member has a DPI or other personal conflict of interest, they will not have fettered their discretion or breached this Code by:

- (a) Listening or receiving viewpoints from residents or other interested parties;
- (b) Making comments to residents, interested parties, other Members or appropriate officers (making clear that they must keep an open mind);
- (c) Seeking information through appropriate channels; or
- (d) Being a vehicle for the expression of opinion of others in their role as Ward councillor.

## **7 Lobbying by Councillors**

7.1 Members should not:

- (a) become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If they do, they will be seen to have fettered their discretion on the grounds of bias.

- (b) excessively lobby fellow councillors regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- (c) decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. **Political group meetings should never dictate how Members should vote on a planning issue.**

7.2 Members may wish to join general interest groups which reflect their areas of interest, and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE The Countryside Charity, Ramblers Association or a local civic society. If they do so they should register and disclose the interest in accordance with the Code of Conduct.

7.3 Members should be aware of the power of social media and be careful not to do anything which would give the impression that they will definitely vote in a certain way or act with a closed mind if they intend to participate in the decision making on behalf of the authority.

## **8 Officers**

8.1 Members must:

- (a) Not put pressure on officers to put forward a particular recommendation. (This does not prevent them from asking questions or submitting views to the Head of Development Management and Building Control or the case officer, which may be incorporated into any committee report);
- (b) Recognise that officers are part of a management structure and only discuss a proposal outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at Member level; and
- (c) Recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' view, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## **9 Site Visits**

9.1 The majority of application sites can be viewed from the public highway or other public vantage points and Committee Members are encouraged to view the site this way prior to any committee meeting where they are unfamiliar with the site context. In exceptional cases, it may be necessary to go into the site or



neighbouring land. When this is the case the following rules apply:

Members should not request an organised site visit unless they consider it strictly necessary because:

- (a) Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- (b) There are significant policy or precedent implications and specific site factors which need to be carefully addressed.

Any such request must be made to the Head of Development Management and Building Control and a record of why the visit was requested will be kept. The Director of Economic Development and Planning and/or the Head of Development Management and Building Control will consult with the Chair of Planning and Development Committee before determining whether the request should be authorised. They will then make arrangements for that visit.

- 9.2 Where a site visit has been organised Members should endeavour to attend.
- 9.3 Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation from applicants, agents or other third parties, as this may give the impression of bias. In instances where committee members are asked to visit a site, before attending they must email or speak to the Head of Development Management and Building Control about their intention to do so and why they feel it is essential to visit the site. This will be recorded on the planning file. Members must ensure that they comply with the good practice rules on the visit. Members should note that they do not have any individual rights to enter private property.
- 9.4 In all instances, Members should:
  - (a) Report back to the Committee any information gained from the site visit that they consider would benefit all Members of the committee;
  - (b) Ensure that they treat the site visit only as an opportunity to seek information and to observe the site; and/or
  - (c) Ask officers at the organised site visit questions or clarification from them on matters which are relevant to the site inspection.
- 9.5 In all instances, Members should not:
  - (a) Hear representations from any other party. Where a Member is approached by the applicant, third party and/or the Ward member, they should advise them that they should make their representations in writing to the local planning authority and, in the case of an organised site visit, direct them to or inform the officer present.

- (b) Express opinions or views

## **10 Decision making**

- 10.1 The delegation of appropriate powers and functions by the Planning and Development Committee to designated officers has long been regarded as an essential element for the delivery of an efficient planning service. The Council's Scheme of Delegation [[a link to be added here](#)] forms part of the Constitution.
- 10.2 The Scheme of Delegation contains provision for a Ward member to call in a decision to be considered by committee which would ordinarily be determined by officers. If a Ward Councillor wishes to exercise this right, they may do so to the extent permitted by the Scheme of Delegation and subject to the procedures therein, including recording their material planning reasons on the request form. Those reasons will be recorded in the officer's report to committee as prescribed by the Scheme of Delegation.

### **Committee Reports**

- 10.3 Reports to Planning and Development Committee will normally be available at least five working days prior to the meeting.
- 10.4 All applications submitted to the committee will have a full written report from officers including a reasoned assessment of the proposal, reference to relevant policies and a justified recommendation and analysis of available options. Reports will cover the substance of any objections and the views of people and bodies that have been consulted.
- 10.5 Any oral presentations raising new matters and updates by officers to the committee will be minuted.

### **Members decision making at committee meetings**

- 10.6 When making decisions at committee meetings Members should:
  - (a) Come to the meeting with an open mind and demonstrate that they are open-minded.
  - (b) Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
  - (c) Come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If Members feel there is insufficient time to digest new information or that there is simply insufficient information before them they should request that the application is deferred or refused. The reasons for deferral or refusal should be recorded.
  - (d) Ensure that if they are proposing, seconding or supporting a decision

contrary to officer recommendations or the development plan that they clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Members can and should take advice from officers prior to a meeting to explore potential material planning considerations and should note that to do so will not be taken as having predetermined a matter, so long as they ensure they approach the eventual decision making with an open mind. Members should be aware that they may have to justify the resulting decision by giving evidence in the event of a challenge.

- 10.7 Where Members are minded to approve or refuse an application contrary to officer advice, the application will be deferred to a future meeting of committee when it will be reconsidered with properly drafted conditions or refusal reasons forming part of the full report, which will also include details of the original recommendation if appropriate.
- 10.8 Members should not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the officers' introduction to the matter.

#### **Public Speaking at Meetings of Planning and Development Committee**

- 10.9 Members should not:
- (a) Allow members of the public to communicate with them during the Committee's proceedings (verbally, in writing or by social media) other than through speaking in public participation or through the chair, as this may give the appearance of bias.
  - (b) Participate in social media exchanges by texting as a member of the committee during the committee proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- 10.10 Members should ensure that they comply with the Council's standing orders with regard to speaking at meetings.

#### **Requests by Members for information**

- 10.11 Wherever possible, Members should give advance notice of additional information they intend to request, or information they intend to contest, at the committee meeting so that officers can be in a position to assist and avoid the unnecessary deferral of a decision.

#### **Public Participation**

- 10.12 In order to give greater opportunity to applicants and objectors to express their respective points of view, the Planning and Development Committee operates a scheme of public participation [\[a link will be added here\]](#).

## **11 Issue of Decisions**

- 11.8 Where an application is approved or refused by Committee the planning permission or notice of refusal will normally be issued to the agent (or applicant in the absence of an agent) within 48 hours of the date of the Committee Meeting.
- 11.9 Where an application is approved subject to a legal agreement, the decision notice will not be issued until the agreement has been completed.

## **12 Member Training**

- 12.8 Members should not participate in decision making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 12.9 Members should endeavour to attend any other specialist training provided (which may include a review of a sample of planning decisions) by the Council as these will extend their knowledge of planning law, regulations, procedures, Code of Practice and Development Plans beyond the minimum provided in the mandatory training and thus assist them in carrying out their role properly and effectively and ensure robust decision making.