

**Councillor Involvement in Planning Decisions: Conclusions and Recommendations from Planning Committee**  
Report by Solicitor and Director of Planning and Strategy

**Summary:** The Planning Committee on 17 August 2007 considered a report on the main conclusions and recommendations of a report issued by the Department for Communities and Local Government on Councillor Involvement in Planning Decisions. The Committee also considered the conclusions of the Standards and Planning Committees' Working Group held in April 2007.

The Planning Committee accepted and endorsed the conclusions of the working group and the resulting proposed amendments to the Code of Conduct for Members on Planning Committee and Officers.

**Recommendation:** That the Code of Conduct for Members on Planning Committee and Officers as amended by the Committee at Appendix 1 and 2 be approved.

## **1 Introduction**

- 1.1 The Department for Communities and Local Government produced their final report on Councillor Involvement in Planning Decisions in January 2007, copies of which were distributed to all members.
- 1.2 A joint working group of Standards Committee and Planning Committee members together with officers met on 24 April 2007 to consider the recommendations within the report, their relevance to the Authority and whether there was a need to change any of the Authority's current practice. They concluded that in a number of ways, the Authority was already meeting and following the guidance being given.
- 1.3 Several of the recommendations within the report did not apply to the Authority. However, the group gave detailed consideration to the recommendations and concentrated on those which were considered to be most relevant to the Authority. These were covered by the following headings:
  - Early Member Involvement
  - Democratic Decision making
  - Decisions contrary to officer recommendation

- Links between policy and decision-making
- Member training

1.4 Full copies of the report to Planning Committee on 17 August 2007 are available on request or can be viewed on the Authority's website [www.broads-authority.gov.uk](http://www.broads-authority.gov.uk)

## 2 Conclusions

2.1 It was concluded that the current practices of the Authority largely address the guidance being given within the report on Councillor Involvement in Planning Decisions, but further consideration should be given to improving current practices, particularly through involvement in pre-application discussions, member training and review of the scheme of delegation.

2.2 In detail:

- (1) The Code of Conduct for Members on Planning Committee should be amended as shown at Appendix 1 to clarify guidance on early member involvement in planning applications.
- (2) The Authority's site visit procedures should be amended as shown at Appendix 2 to clarify procedures for reporting back to committee and consequential changes following the change in service delivery.
- (3) The Scheme of Delegation arrangements to be reviewed after September 2007.
- (4) The desirability for the Chairman of the Planning Committee to be an elected member appointed to the Authority by a local council is confirmed.
- (5) The Authority's current Planning Code provides a procedure for dealing with applications where the Committee is minded to disagree with the officer recommendation.
- (6) The provisions for forging closer links with the parish councils is to be commended and that as the Authority's planning system develops ways of improving the relationship with the parish councils should be kept under review.
- (7) The matter of lead members in relation to planning particularly for cultural heritage to be considered by the Authority. (Agreed by the Authority on 29 June 2007)).
- (8) The current practice for member training should be continued and developed. A further programme for members training is now being implemented following the new appointments after the local elections.

Background papers: - Councillor Involvement in Planning Decisions, Final Report from  
Department for Communities and Local Government January 2007  
- Report from Working Group and Planning Committee 17 August 2007

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Appendices: APPENDIX 1 – Extract from Code of Conduct for members on  
Planning Committee and officers: proposed amendments re  
Predetermination and Pre and Post Application Decisions  
  
APPENDIX 2 – Extract from Code of Conduct for Members on  
Planning Committee: Amendments re Planning Committee Site Visits

Enclosures: Nil

## Extract from Code of Conduct for members on planning committee and officers

### *proposed amendments in italics*

#### 4 Predetermination

Members sitting on another Committee of the Authority at which a planning application is under discussion should avoid unqualified expressions of support or opposition which might lead an informed member of the public to think that they will not be able to have an open mind when the application comes to the Planning Committee. If members do wish to participate and vote at full Authority or the Navigation Committee and at Planning Committee, members must declare at full Authority and the Navigation Committee:

- (a) That they understand that they are considering the proposals within the remit of the full Authority or the Navigation Committee and not coming to a decision on all, nor even necessarily any, of the matters which are material to a planning application.
- (b) Notwithstanding participation in debate or voting at full Authority or the Navigation Committee they will when the matter comes before the Planning Committee consider any planning application afresh and take into account any representations for and against the proposal in the light of up to date circumstances.

Any member who is unable to consider the proposal afresh at the Planning Committee or who has publicly campaigned for a particular outcome (see paragraph 10) should withdraw from the item at the Planning Committee.

#### 5 Pre and Post Application Discussions

5.1 Discussions between ~~an applicant~~ *developers* and the Authority can be of considerable benefit and are encouraged by government. *Applicants may also organise their own form of consultation to which Members may be invited.* The following guidelines should be followed:

5.2 *Where an application has not been submitted:*

- i) *Exceptionally, and generally only in the case of major applications raising significant issues, it may be appropriate for Members to be involved in an application prior to its submission. Such involvement will, however, be limited to: -*

*(a) Public exhibitions or public meetings.*

*(b) Committee site visits.*

*(c) (Very exceptionally) private meetings between the applicant and the Authority or third parties.*

*ii) In the case of all such meetings: -*

*(a) The remit of Members and the purpose of their involvement to identify issues and understand local concerns should be made clear.*

*(b) Members must maintain an impartial listening role and avoid expressing an opinion or giving advice beyond outlining adopted planning policies.*

*(c) Any discussion should not develop into negotiations and it must be made clear that they are not part of the determination process.*

*(d) Discussions should not touch on commercially sensitive or confidential information, bearing in mind the need for transparency and the requirements of the Freedom of Information Act; and*

*(e) Officers of appropriate seniority should attend and written notes of the proceedings should be kept on file.*

*(f) Members involvement should, wherever possible, be authorised by the Planning Committee and their involvement recorded in any subsequent committee report.*

**5.3** *Where an application has been submitted:*

*i) Following the submission of a planning application, Members' involvement prior to consideration at Committee will be limited to public meetings and committee site visits referred to in paragraph 5.2 i) (a) and (b) above.*

*ii) If approached, Members should advise applicants to contact the district planning officer for further guidance.*

*iii) In the case of meetings between the developer and planning officer: -*

~~(a) Members and~~ Officers should clarify at the outset that discussions will not bind the Authority to making a particular decision.

~~(b)~~ No views will be expressed on the outcome of the application since not all information will be to hand, neither will consultation have taken place.

~~(c)~~ Advice should be consistent and based on the development plan and material considerations.

~~(d)~~ Advice should be, and be seen to be, impartial.

~~(e)~~ A written note should be made of all meetings and telephone discussions.

~~(f)~~ Applicants should be met on Authority or District Council premises except in exceptional cases and other than for site familiarisation purposes.

5.4 *Members should not seek to influence or put pressure on officers to support a particular form of action.*

5.5 These guidelines apply also to meetings to discuss planning applications or development proposals called by third parties ~~attended by Members or officers,~~ including attendance at parish council or other public meetings.

5.6 *Generally, Members should not say anything which gives the appearance that they have made up their mind on an application and they should not accept any hospitality offered by the applicant or other interested party at a public meeting or public exhibition unless it is also offered to the public at large.*

**Broads Authority – Planning Committee Site Visits****(APPENDIX 3 to Planning Committee Code of Conduct)****Information Note for Planning Committee Members**

These notes provide information to members and officers on the conduct of Broads Authority Planning Committee site visits.

**1 Selection of Site Visits**

Committee site visits are used as one means of ensuring that members have sufficient information about the site and the surrounding area to reach a decision on a particular application. They are used selectively as fact finding exercises to supplement officer reports and other information. As information gathering exercises, they are not formal Committee meetings, no decisions or recommendations are made.

The decision to hold a site visit is at the Committee's discretion. It can result from officer recommendation or from a member or members requesting a visit. They will often be appropriate for major or strategic sites but can also be used where there is particularly strong local concern, for example from a Parish Council. Site visits for small scale development in sensitive locations, or where issues are finely balanced, may also be appropriate. They may also be helpful where particular interests or functions of the Authority are involved, e.g. navigation or conservation. Determination of the great majority of applications does not involve the holding of a Committee site visit.

**2 Member Attendance**

All Planning Committee members are invited to attend site visits and are urged to do so wherever possible. Members will be sent details of the visit in advance, including a site location map.

**3 Site Visit Dates**

These are published in advance and are normally 2 weeks before a Planning Committee meeting. The first site visit is normally scheduled for 10.00 am.

**4 Invitations to Site Visits**

In addition to Committee members, the following are invited to the site meeting in a consultative capacity:

- a representative from the Parish Council;
- the local District Council member;

- a representative from the Broads Society (as an observer).

The applicant's agent is notified of the proposed site visit date and permission is requested for access to the land, informing them of the fact finding nature of the visit.

## 5 Conduct of Site Visit

The site visit proceeds as follows:

- (i) Chairman welcomes those attending, stressing that the site visit is for fact finding, no decision will be made on site and the application will be considered for determination at *a future* ~~the next~~ Committee meeting;
- (ii) apologies;
- (iii) ~~District~~ Planning Officer describes the application giving details of the site, the development proposed and any updated information. *She/He* should show and explain any relevant drawings and should pay particular attention to the context of the site in the Broads area. *She/He* should refer to relevant planning policy and to results of consultations and, where appropriate, officers assessment and recommendation;
- (iv) comments from other officers, where appropriate, including:
  - ~~Broads Authority Chief Planning Officer;~~
  - County Council (Highways) Officer;
  - other Broads Authority officers if present, e.g. Conservation or ~~Waterways~~ ~~Officers or Navigation Officer;~~
- (v) comments from all invitees, at the discretion of the Chairman, i.e. the Parish Council and/or the District Council member, may be invited to speak at this point.

**Note** Although the applicants and/or ~~his~~*their* representative, or the occupier of the site, may be in attendance at the site meeting they are not invited to 'put their case'. At the Chairman's discretion, the applicants may be asked to provide factual information concerning the application. Similarly, uninvited third parties who attend will not normally be asked to speak, subject to the Chairman's discretion.

Representation in support of or objection to the application should be made in writing to the Authority (~~via the relevant District Council office~~);

- (vi) comments and questions from Broads Authority members;

- (vii) opportunity for members and others to walk around the site as a group, if considered necessary;
- (viii) *Chairman concludes and closes the meeting:*
  - ~~he~~ *The Chair* may wish to ask whether anyone (other than the applicant) wishes to raise any further points and refer to any points which require clarification before the ~~next~~ Committee meeting;
  - in view of the fact finding nature of the visit, members should be as impartial as possible. It is important to avoid saying that the meeting has produced a particular decision or recommendation and to avoid discussing the application with any interested party immediately before or after the site visit. Members should be circumspect in their comments. The intention is to ensure that applicants, and consultees, appreciate that the planning application *will be considered with an open mind when the full report is considered by the Planning Committee.* ~~is being considered seriously and professionally;~~
  - disperse;
- (ix) a summary note of the site meeting is taken on the day and is ~~normally~~ included with the agenda papers for the ~~following~~ *relevant* Committee meeting. *The note of the site meeting is available on the public record of the application.*