

## **PLANNING PROTOCOL OF CONDUCT IN RELATION TO THE DETERMINATION OF PLANNING MATTERS**

Section	Subject	Page Number
	Summary	1
1	Development proposals and interests under the members' code	3
2	Pre-determination (fettering discretion) in the planning process	4
3	Membership of Parish Councils and outside bodies	5
4	Cabinet Members	6
5	Contact with Applicants, Developers, Objectors	7
6	Pre-Application discussions	8
7	Lobbying of Planning Committee members	8
8	Membership of lobby or general interest groups	9
9	Site Inspections	11
10	Public Speaking at Meetings	12
11	Officers	13
12	Decision Making	14
13	Training	15
14	Involvement in s106 Agreements	15
15	Monitoring and review	16

The aim of this Planning Protocol 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 and applies to members of the Strategic Planning Board or Northern and Southern Committees when they are involved in the planning process.

The Members Code of Conduct should be applied throughout the decision making process and this Planning Protocol seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not follow this Planning Protocol you may put the Council and yourself at risk of proceedings on the legality or maladministration of the related decision.

**If you have any doubts about the application of this Planning Protocol to your own circumstances you should seek advice early, from the Monitoring Officer, and preferably well before any meeting takes place.**

In this Planning Protocol "planning meeting" covers all meetings of the Strategic Planning Board and the Northern and Southern Planning Committees.

## **SUMMARY**

Important things to remember –

1. apply the rules in the Members' Code of Conduct first, which should be complied with throughout the decision making process, and disclose the existence and nature of any interest at the relevant meeting
2. understand what personal and prejudicial interests are, and the consequences and differences of a declaration of either
3. don't make your mind up on how you will vote on a matter prior to the formal consideration of the matter at the meeting
4. be aware that if you do lobby or campaign on a particular issue it may remove you from the decision making process
5. as a cabinet member, don't take part in a planning meeting in a matter that you are considered to be the advocate of a proposal
6. if you are approached for technical planning advice, refer the person to Officers
7. if you attend meetings individually with developers or lobby groups be careful not to put yourself in a position where you appear to favour a person or a group over another
8. if you do attend a meeting make sure it is clear that you do not bind the authority to a particular course of action, or views, and that the meeting is noted in your diary
9. you can ask that Officers attend and/or organise meetings
10. avoid accepting gifts or hospitality from anyone involved in a planning proposal
11. it is not advisable to become a member of a group or organisation whose primary purpose is to promote or oppose specific planning proposals in your area
12. a site inspection is the opportunity to seek information and observe the site not to start the debate into the merits of the application
13. you can call-in an application to be determined by Committee that would otherwise be delegated to Officers

14. you can discuss applications with Officers but the Officer must be able to reach their own conclusion
15. make sure you are present at the planning meeting for the entire item, including the Officers introduction and update
16. not to allow members of the public to communicate with you during planning meetings
17. you may exercise your public speaking rights at a planning meeting if you cannot attend the meeting as a member of the Committee
18. make sure your decisions at a planning meeting take into account the development plan and other relevant material planning considerations
19. put your and your local community concerns forward at the planning meeting, and to consider whether planning gain requirements under s106 could help make acceptable development that would otherwise be unacceptable in planning terms
20. include the content of s106 agreements in the debate at a planning meeting
21. if you are proposing or seconding a decision that is contrary to Officer recommendation that you need to identify the planning reasons with the assistance of the Officers for doing so
22. you should try to attend all training sessions arranged by the Council

This summary provides a list of the main points to remember while the body of the Protocol provides more detailed information, explanation and assistance.

## **1 DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE MEMBERS' CODE**

- 1.1 It is your responsibility to declare the existence and nature of any interest, including any perceived interest, at the relevant meeting, including informal meetings or discussions with Officers and other Councillors. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. The requirements for you to declare any interest apply whenever you are in attendance at a meeting, regardless of whether you are a member of the Committee or not.
- 1.2 Where your interest is personal and prejudicial:-
- You cannot participate in, or give the appearance of trying to participate in, the making of any decision on the matter by the planning authority, including the processing of the application. You must withdraw from the meeting room when the matter is announced unless you are exercising your public speaking rights. Please see section 10 for your right to attend and make representations under the Public Speaking Protocol.
  - You shouldn't try to represent local, Ward or Area views, get another Member to do so instead.
  - Be careful not to seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with Officers or Councillors when other members of the public would not be able to do the same.
  - Whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate Officer, in person or in writing, be aware that the Code places greater limitations on you than would apply to a normal member of the public.
- 1.3 You do need to notify the Monitoring Officer and Head of Planning and Housing in writing if you are submitting your own application, or if you are employed as an agent and:-
- The notification to the Monitoring Officer and the Head of Planning and Housing should be made no later than submission of the application;
  - the proposal will always be reported to a planning meeting and not dealt with by Officers under the scheme of delegation; and
  - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with Officers and any public speaking at the planning meeting (where appropriate) to avoid public criticism

- you can make written representations to Officers about the proposal and may address the planning meeting pursuant to the Public Speaking Protocol subject to certain additional restrictions.

## **2 PRE-DETERMINATION (FETTERING DISCRETION) IN THE PLANNING PROCESS**

- 2.1 Councillors of the planning meetings should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, so must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's planning meetings. Not to do so puts the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 2.2 In order to avoid pre-determination and therefore your ability to participate in planning decision-making wait until the formal planning meeting to hear the Officers presentation, any public speakers and arguments on both sides before expressing your view on an application.
- 2.3 Take care in the wording of your planning reasons on a call-in that you do not suggest that you have already formed a view on the application, if you have not done so, and have therefore pre-determined the application. Seek advice on this from Officers if necessary prior to completion of your form. Wording such as "I consider that this application may raise issues of ..." will help avoid claims of pre-determination if you have not done so.
- 2.4 If the Council is the landowner, developer or applicant and you have acted as, or could be viewed as being, a chief advocate for the proposal then you are likely to have pre-determined the application. (This is more than a matter of dual membership, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 2.5 You are always free to listen to a persons point of view about a planning proposal, give basic procedural advice and can agree to forward any comments, but beyond this you should refer the person to the appropriate planning Officer.
- 2.6 If there are other ward Councillors available that do not sit as a member of the same planning meeting then they will not be subject to

the same restrictions regarding pre-determination and can therefore be an alternative contact for members of the public or lobby groups.

- 2.7 Political group meetings prior to the planning meeting should not determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but you should not make up your mind until you have read the planning Officer's report and update and heard any further representations and the debate at the planning meeting.
- 2.8 You should not speak and vote on a proposal as a member of the planning meeting where you have pre-determined an application. You are not legally obliged to withdraw from the room but in most circumstances doing so will counter any suggestion that you influenced the remaining members by your continued presence. If in any doubt you should seek advice from the Monitoring Officer. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 2.9 If you have pre-determined an application you should explain that you have, or could reasonably be perceived as having already made up your mind on an application so that this can be recorded in the minutes. You may then exercise separate speaking rights, where you do wish to speak:
- advise the democratic services Officer or Chairman that you wish to speak in this capacity before the planning meeting;
  - remove yourself from the member seating area to the public gallery for all of that item and consider whether you need to leave the room; and
  - ensure that your actions are recorded in the minutes.

### **3 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES**

- 3.1 The Members' Code of Conduct provides for a presumption that you may regard yourself as not having a personal interest in matters which relate to specific organisations and if you do not intend to speak on the matter at the planning meeting.
- 3.2 You do need to exercise your discretion in deciding whether or not to participate in each case and where you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of :`
- (a) another local or public authority of which you are a member; or
  - (b) a body to which you have been appointed or nominated by the Council as its representative; or

(c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council

you should always disclose a prejudicial as well as personal interest and withdraw from the planning meeting.

3.3 Where you do intend to speak on a matter at the planning meeting, or are unsure if you wish to do so, it is advisable to declare that interest at the start of the meeting, although you are not legally obliged to.

3.4 You can take part in the debate on a proposal when acting as part of a consultee body for a planning application (where you are a member of the Parish Council, for example), provided:

- the proposal does not substantially affect the well-being or financial standing of the consultee body;
- you make it clear to the consultee body at the time they consider the matter that:

(a) your views are expressed on the limited information before you only;

(b) you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning meetings and you hear all of the relevant information; and

(c) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the planning meeting;

and you disclose the personal interest regarding your membership or role when the planning meeting comes to consider the proposal.

## **4 CABINET MEMBERS**

4.1 There is no Constitutional or legal reason why a Cabinet member should not also be a member of the planning meeting and take part in the decision-making processes which are not part of the executive function.

4.2 You should not speak or vote as a member of any planning meeting on any matter which you have discussed at Cabinet unless you have demonstrated there, and can do so at the relevant planning meeting, that you have not predetermined the application.

4.3 At a planning meeting on a matter in which you may have been seen as advocating a proposal as a Cabinet Member, and so pre-determined the matter, do not take part in the debate, but you can exercise separate speaking rights under the Public Speaking Protocol provided you do not have a personal and prejudicial interest. Where you do wish to speak :

- advise the democratic services Officer or Chairman that you wish to speak in this capacity before commencement of the item;
- remove yourself from the member seating area to the public gallery for the duration of that item and consider leaving the room after you have spoken; and
- ensure that your actions are recorded in the minutes

## **5 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS**

- 5.1 If you are approached for technical planning advice you should refer the person to Officers, and can always refer a person to Officers if you are uncomfortable giving procedural or other advice.
- 5.2 Where you feel that a formal meeting would be useful in clarifying issues, you should request the Head of Planning and Housing to organise this. The Officer will then 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 and that views expressed are provisional, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the planning meeting.
- 5.3 If you are invited to attend a meeting with applicants, developers or groups of objectors you should exercise care particularly between the submission of an application and the planning meeting where it is to be determined. You can attend meetings but need to be careful not to express views or opinions on the application if you are intending to take part in the planning meeting.
- 5.4 In addition you should consider:
  - the advice on lobbying;
  - whether or not it would be prudent in the circumstances to make notes when contacted;
  - notifying the Head of Planning and Housing of any significant contact with the applicant and other interested parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
  - asking relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.
- 5.5 Don't attend a planning presentation unless an Officer is present and/or it has been organised by Officers, as it is a form of lobbying and you need to be careful not to express any views on the application or give the impression you have made up your mind.
- 5.6 Remember that a presentation is not part of the formal process of debate and determination of any application, this will be carried out by



the appropriate planning meeting of the planning authority, but you are able to ask relevant questions for the purposes of clarifying your understanding of the proposals.

## **6 PRE-APPLICATION DISCUSSIONS**

- 6.1 It is recognised that pre-application discussions can be of great benefit to the planning process, however, this may create some risks for Councillors and for the integrity of the decision making process and therefore they should only take place within clear parameters and governance arrangements and always with Officers present and a written record of the discussions made and kept.
- 6.2 If you are involved by an Officer in pre-application discussions ensure that it is made clear that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional, as by their very nature not all relevant information will be available and no formal consultation will have taken place.
- 6.3 Officers should deal with any queries or give advice in pre-application discussions upon policies within the Development Plan and other material considerations that may be relevant to a particular proposal or be drawn into negotiations. This ensures a consistent and co-ordinated approach from the Council.
- 6.4 Where there is a legitimate reason justifying non-disclosure respect a request for confidentiality. Seek advice from the Officers present if you are unsure.
- 6.5 Make sure you provide information on matters of fact, local knowledge and geography to any pre-application meeting rather than dealing with the merits of any proposed application.
- 6.6 Make sure you do not use your position to improperly influence decisions in pre-application meetings.
- 6.7 You can ask an Officer for a briefing or update on the content of pre-application meetings if you are uncomfortable about attending those meetings yourself.

## **7 LOBBYING OF PLANNING COMMITTEE MEMBERS**

- 7.1 While you can listen to those lobbying or attempting to lobby you, you should explain that it prejudices your impartiality and therefore your ability to participate in the planning meetings decision-making to declare an intention to vote one way or another or express such a firm point of view that it amounts to the same thing.

- 7.2 As a member of the planning meeting your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 7.3 You should not accept any gifts or hospitality from a person involved in or affected by a planning proposal. Where a degree of hospitality is entirely unavoidable, you must ensure it is of a minimum level, its acceptance is declared as soon as possible and remember the Code of Conduct provides that you register any gift or hospitality where its value is over £25.
- 7.4 Remember to copy or pass on any lobbying correspondence you receive to the Head of Planning and Housing at the earliest opportunity or declare the receipt of lobbying information at the planning meeting.
- 7.5 If you receive any offers of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise, refer the person to the Head of Planning and Housing.
- 7.6 If you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), notify the Monitoring Officer who will in turn advise the appropriate Officers to follow the matter up.
- 7.7 Unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Protocol through:
- listening to or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Councillors or appropriate Officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## **8 MEMBERSHIP OF LOBBY OR GENERAL INTEREST GROUPS**

- 8.1 Avoid becoming a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals or those within a limited geographical area, as if you do, you are likely

to have fettered your discretion and have a personal and prejudicial interest and have to withdraw from the planning meeting.

- 8.2 Remember to register your membership of any lobby group and declare the existence and nature of your interest in any lobby group at planning meetings. Often this will be a personal interest and you can continue to participate but note that it can sometimes be a prejudicial interest or lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.
- 8.3 If a matter relates directly to the lobby group of which you are a member rather than to the views it holds, or is submitted by the group you should ordinarily consider that you have a personal and prejudicial interest and should act accordingly.
- 8.4 Where your lobby group has expressed a public view on a matter you need to consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors you should consider are:
  - the nature of the matter to be discussed
  - the nature of your involvement with the lobby group
  - the publicly expressed views of the lobby group
  - what you have said or done in relation to the particular issue
- 8.5 If the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.
- 8.6 Remember that if you publicly support a particular outcome on a proposal within your Ward or actively campaign for it, you will not be able to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. There is a fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining any application in accordance with the law.
- 8.7 You are able to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that

organisation has made representations on a particular proposal and make it clear to that organisation and the planning meeting that you have reserved judgement and the independence to make up your own mind on each separate proposal.

- 8.8 Don't excessively lobby fellow councillors regarding your 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. It is difficult to define "excessively" but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- 8.9 You should not ever 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 Councillors should vote on a planning issue.

## **9 SITE INSPECTIONS**

The Council has a separate protocol that deals with Site Inspections in more detail.

- 9.1 Site Inspections can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to the meeting of the Planning meetings. It should be noted that this Section applies to both Councillors requests for a Site Inspection and those the Head of Planning and Housing may arrange without prior discussion where, in his professional opinion, there is a real benefit from viewing the site.
- 9.2 It is important to ensure that Councillors taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit. Attendance of Councillors at site visits will not only demonstrate that Councillors are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised. The expectation is that all planning meeting members will attend all formal site inspections and a record of attendance will be maintained and monitored.
- 9.3 You should try to attend site inspections organised by the Council.
- 9.4 You can request a site inspection if you feel it is strictly necessary because:

- 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
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed; or
  - details of the proposed development cannot be ascertained from plans and any supporting information to Councillors satisfaction at the planning meeting; or
  - where design considerations are of the highest importance particularly in relation to the surrounding locality.
- 9.5 The site inspection is an opportunity for you to seek information and to observe the site, and therefore you can ask the Officers at the site inspection questions or seek clarification from them on matters which are relevant to the site inspection. Officers may seek clarification from the applicant or an objector on your question, but you should not do this directly.
- 9.6 Be careful not to be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind while on a site inspection by expressing opinions or views to anyone. The decision can only be made at the planning meeting and you should make this clear to any applicant or other party who approaches you and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the Officer present.
- 9.7 Information that you gain from the site inspection should be reported back to the planning meetings, so that all Councillors have the same information.
- 9.8 You should not enter a site, which is subject to a proposal other than as part of an official site inspection, even in response to an invitation, as this may give the impression of bias. If you feel it is essential for you to visit the site other than through attending the official site inspection you should speak to the Head of Planning and Housing about your intention to do so and give him the opportunity of an Officer accompanying you. If you do attend site on your own ensure you comply with these good practice rules on site inspections.

## **10 PUBLIC SPEAKING AT MEETINGS**

The Council has a separate protocol that deals with the procedure for Public Speaking at meetings in more detail.

- 10.1 Members of the public and non-committee members should not communicate with you during the planning meeting (orally or in

writing) other than through the scheme for public speaking, as this may give the appearance of bias.

- 10.2 Make sure that you comply with the Council's Protocol for Public Speaking at planning meetings if you are attending the planning meeting other than as a member.
- 10.3 Councillors are entitled to speak at a planning meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member.
- 10.4 Where you have a personal and prejudicial interest in the application then you may attend and speak in accordance with the protocol but only for the purpose of making representations, answering questions or giving evidence relating to the matter in the same manner as would apply to a normal member of the public. Immediately after doing so you must leave the meeting room whilst the meeting considers the proposal even though members of the public may remain.
- 10.5 Planning Councillors who have pre-determined a matter may also exercise public speaking rights and should consider withdrawing from the meeting room having spoken on a matter to counter any potential suggestion that the remaining members were influenced by your continued presence.

## **11 OFFICERS**

- 11.1 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst Officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to Officers can only be given through a decision of the Council, the Cabinet, Board or Committee or under delegated powers and not by individual Councillors acting outside those powers.
- 11.2 You can submit views on current applications to the Head of Planning and Housing, which can be incorporated into any committee report.
- 11.3 Officers are part of a management structure and you can discuss a proposal, outside of any arranged meeting, with those Officers who are authorised by the Head of Planning and Housing to deal with the proposal at a Member level or the Head of Planning and Housing. However, you should not seek to do anything that would compromise, or is likely to compromise, the impartiality of Officers who must be free to reach their own conclusion.

- 11.4 Officers who are 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' views, 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 planning meeting or its Councillors.
- 11.5 Remember the Council's Member/Officer Relations Protocol.

## **12 DECISION MAKING**

The Strategic Planning Board has adopted a separate protocol that deals with the Call in of planning applications in more detail.

- 12.1 Ensure that the planning reasons in your request for a proposal to go before the planning meeting rather than be determined through Officer delegation are recorded and repeated correctly in the report to the planning meeting.
- 12.2 Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless other material considerations indicate otherwise.
- 12.3 It is important that you reach your decision only after due consideration of all of the information reasonably required upon which to base a decision. You should come to meetings with an open mind and if you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information, and if necessary, defer or refuse the application.
- 12.4 It is vital that you have been present to hear the entire item, including the Officers' introduction to the matter before you vote or take part in the meeting's discussion on a proposal.
- 12.5 Check that the minutes of the meeting record correctly the reasons for the planning meeting's decision to grant, refuse or defer any proposal.
- 12.6 The planning meeting can delegate to the Head of Planning and Housing in conjunction with the Chairman, if necessary, the specific wording of conditions that the planning meeting may wish to add or amend when they are considering an application for approval. An explanation of why the change or addition is required should be given to the planning meeting.
- 12.7 Be aware that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the development plan that you

need to clearly identify and explain the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and will be recorded and Officers will be able to assist with formal wording. Be aware that you may have to assist in defending a resulting decision by giving evidence in the event of any challenge.

- 12.8 Where necessary, you can consider deferring the determination of sensitive applications that the planning meeting wish to approve against Officer recommendation to the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further new information.
- 12.9 Where necessary, you can consider deferring the determination of an application to another meeting if there is a very strong objection from Officers on the validity of reasons for refusal against Officer recommendation, to allow the proposed reasons to be further investigated and form the basis of an updated report to a future meeting.
- 12.10 You should ensure that you are aware of, and comply with the Protocols adopted by the Strategic Planning Board.

### **13 TRAINING**

- 13.1 You should attend the mandatory planning training prescribed by the Council before you participate in decision-making at meetings.
- 13.2 Try to attend any other specialised training sessions provided, as these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and assist you in carrying out your role properly and effectively.

### **14 INVOLVEMENT IN SECTION 106 AGREEMENTS**

- 14.1 The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by such benefits offered.
- 14.2 Remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or



compensating for loss or damage created by the development, or to mitigate a developments impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.

- 14.3 Requirements of Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the Head of Planning and Housing as soon as you become aware of them.
- 14.4 The content of Section 106 Agreements needs to be discussed at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.
- 14.5 If you feel that a meeting would be useful to clarify issues of content of potential Section 106 agreements, you should ask the Head of Planning and Housing to arrange a meeting with relevant Officers. Participants can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.
- 14.6 Do remember **that it is imperative that** a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that the Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors can contact Officers for any information required on completed Section 106 Agreements.

## **15 MONITORING AND REVIEW**

- 15.1 The Head of Planning and Housing will report annually to the Portfolio Holder regarding compliance with the arrangements set out in this Planning Protocol and will identify any proposals for amendment in light of issues that have arisen, although any amendments would be required to go through the Council's formal process.
- 15.2 In particular, the Head of Planning and Housing shall monitor the following:-
  - (a) the number of complaints made about breaches of the Planning Protocol and the outcome of those complaints;
  - (b) the number of appeals upheld;
  - (c) any external inspection reports in respect of relevant issues;
  - (d) the level of awareness of the Planning Protocol among Councillors and Officers; and
  - (e) the number of Ombudsman reports finding maladministration by Councillors in the conduct of planning issues.