



NEW FOREST NATIONAL PARK AUTHORITY

LOCAL PROTOCOL FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

~~JULY 2012~~ MARCH 2020

<u>Author:</u>	<u>Solicitor and Monitoring Officer</u>
<u>Approved by:</u>	<u>Full Authority</u>
<u>Approval date:</u>	<u>26 March 2020</u>
<u>Next Review date:</u>	<u>March 2022</u>
<u>Version:</u>	<u>1.0</u>
<u>Distribution list:</u>	<u>All Members and Officers</u>
<u>Classification level:</u>	<u>Public</u>

LOCAL PROTOCOL FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

INDEX

	Page No.
Summary	1
1 GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS	3
Why have a local protocol for Planning?	3
Role of Members	4
Role of officers	4
Application to policy formulation and other planning matters	5
Training	6
2 DECLARATION AND REGISTRATION OF INTERESTS	6
Register of Members' interests	6
Members' interests at meetings	7
Membership of another Local Authority	7
The representative role	7
Membership of lobbying groups	8
Group discussions	8
Gifts and hospitality	9
3 DEVELOPMENT PROPOSALS SUBMITTED BY OR ON BEHALF OF MEMBERS AND OFFICERS, AND DEVELOPMENT BY THE AUTHORITY	9
Acting as agents for a planning applicant	9
Planning application by a Member or officer	9
Proposals for the Authority's own development or development on Authority land	10
4 LOBBYING AND REQUIREMENTS RELATING TO PUBLIC MEETINGS	10
Lobbying of Members by the public or planning applicants	10
Members' duty not to pre-judge applications/lobbying by Members	11
Members' and officers' attendance at other public meetings	12
5 PRE-APPLICATION AND PRE-DECISION DISCUSSIONS WITH APPLICANTS	13
Action by officers	13
Attendance by Members at officers' pre-application or pre-decision discussions	13

6	SITE VISITS	13
	Informal site visits	14
7	OFFICER REPORTS TO COMMITTEE	14
8	THE DECISION MAKING PROCESS	15
	Public participation	15
	Decisions contrary to officer recommendation	15
	Conduct of meetings	15
	Appeals against planning decisions	16
9	REVIEW OF DECISIONS	16
10	COMPLAINTS AND RECORD KEEPING	16

LOCAL PROTOCOL FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

Introduction and summary

This Local Protocol for dealing with planning matters applies to all National Park Authority (Authority) Members and officers. It contains guidance and best practice advice on probity in public office, including the common law principles of pre-determination and bias, in the specific context of planning.

It will be taken into account when a complaint is investigated, whether internally (e.g by the Standards Committee), or externally (e.g by the Local Government Ombudsman).

The rules in the statutory Code of Conduct should be applied first, followed by the advice set out in this local protocol. This Code covers any planning matter in which the Authority is, or is likely to be, involved that relates to a specific area of land. This includes planning applications, planning policy land allocations, enforcement etc.

The main points of the guidance, cross-referenced to the detailed text, are set out below for the convenience of Members and officers. They are as follows:

- planning is a formal administrative process which can lead to complaint or judicial review (para 1.4);
- Members and officers must declare pecuniary and non-pecuniary interests ~~in accordance with the Authority's Code of Conduct.~~ (paras 2.4-2.6 and 2.14-2.15). It is preferable for all gifts to be refused;
- Members and officers must not act as agents for those pursuing a planning matter (para 3.1);
- planning proposals from Members and officers must be dealt with by the Planning ~~Development Control~~ Committee, with the proposers taking no part in its processing (paras 3.2-3.3);
- proposals by the Authority must be treated in the same way as those from Members or officers (para 3.4);
- Members and officers must not express any view on the merits of applications when being lobbied (paras 4.1-4.3);
- Members and officers must not lobby on behalf of applicants, nor commit themselves to a particular view before all the evidence is heard (paras 4.4-4.7);
- where Members or officers attend public meetings, they should not express any view about the merits of any proposal (paras 4.9-4.10);

- in any pre-application or pre-decision meetings, officers must not commit the Authority to any particular decision (paras 5.1-5.4). Members should not normally attend such meetings (para 5.5);
- at site visits, Members/officers must not discuss the merits of any application, and reports on the site visit shall be prepared for the Planning ~~Development Control~~ Committee (paras 6.1-6.4);
- officer reports to the Planning ~~Development Control~~ Committee must be comprehensive and accurate, with a written recommendation underpinned by reasons (paras 7.1-7.4). Any departure from the Development Plan must be supported by justification;
- Members must not put pressure on officers for a particular recommendation (para 7.5);
- planning decisions must be supported by clear and convincing evidence. Reasons for decisions contrary to officers' advice, or for approval of proposals contrary to the Development Plan, must be clearly stated (paras 8.2-8.4);
- Planning ~~Development Control~~ Committee meetings should be conducted in a professional manner, with legal and planning officers in attendance (paras 8.5-8.7);
- Members wishing to support an appellant (including the Authority) at appeal against an Authority decision must notify the Monitoring Officer and appellant (paras 8.10 and 8.11);
- planning records should be comprehensive and accurate, and monitored by planning managers. The ~~Development Control Manager~~Executive Director will monitor Planning ~~Development Control~~ Committee decisions on a continuous basis (paras 9.1-10.1).

Members seeking clarification on any issues covered in this Protocol ~~or guidance on declarations of interest~~ should seek such advice from ~~either~~ the Chief Executive, the Executive Director, or the Monitoring Officer. Members seeking guidance on declarations of interest should speak to the Monitoring Officer.

1 GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS

- 1.1 This Local Protocol is an advisory document that expands on the Authority's Code of Conduct, the Protocol for Member and Officer Relations and other provisions concerning probity in public office as they relate to planning. As such, it will be taken into account when a complaint is investigated.
- 1.2 This Protocol must be observed by Members and officers who are involved in determining planning matters. This Protocol will be of particular importance to Members of the Planning ~~Development Control~~ Committee. The responsibility to abide by this Protocol also applies to all other Members on those occasions when a planning matter is referred to a meeting of the full Authority.

Why have a local protocol for Planning?

- 1.3 The law requires Members to comply with the Authority's Code of Conduct. The Code of Conduct concerns probity and other aspects of conduct across the whole range of a Member's duties. This Local Protocol seeks to relate the Code of Conduct's requirements specifically to planning. However, it goes beyond the specific concerns of the Code of Conduct to give more detailed advice on the operation of the planning system. The aim of this additional advice is to ensure the integrity of the planning system is preserved, and that it is, and is seen to be, open and fair to all parties.
- 1.4 Determining a planning application is a formal administrative process involving rules of procedure, rights of appeal, and an expectation that people will act reasonably and fairly. Those involved should always be alert to the possibility that an aggrieved party may:
- a) seek judicial review of the way the decision was arrived at; and/or
 - b) complain to the Local Government and Social Care Ombudsman on grounds of maladministration; and/or
 - c) complain to the Authority that a Member has breached the Authority's Code of Conduct.
- 1.5 Decisions on planning involve considering development proposals against the wider public interest. Much is often at stake, particularly the financial value of landholdings and the quality of their settings, and opposing views are often strongly held by those involved. It is important, therefore, that planning decisions affecting these interests are made openly, impartially, with sound judgement and for justifiable reasons.

Role of Members

- 1.6 Members set the Authority's planning policy and except where these are delegated to officers, determine planning applications and enforcement issues within the context of that policy. It is a requirement of the Members' Code of Conduct that Members must not in their official capacity, or in any other circumstances use their position improperly to confer on or secure for themselves or any other person an advantage or disadvantage.
- 1.7 When Members come to make a decision on a planning matter, they must:
- a) act fairly and openly;
 - b) approach each case with an open mind;
 - c) use adopted policies and guidance as starting and reference points for decision making;
 - d) carefully weigh up relevant issues;
 - e) determine each case on its own merits;
 - f) ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

Role of officers

- 1.8 The function of officers is to advise and assist Members in matters of planning policy and in their determination of planning applications and enforcement issues by:
- a) providing impartial and professional advice;
 - b) making sure that all the information necessary for the decision to be made is given;
 - c) providing a clear and accurate analysis of the issues;
 - d) using adopted policies and guidance as starting and reference points for decision making;
 - e) setting applications and enforcement issues against the relevant Development Plan policies and national policy guidance;
 - f) taking into account all other material considerations;
 - g) giving a clear recommendation;

- h) carrying out the decisions of the Authority made in Committees or Sub-Committees;
 - i) acting in accordance with any code of conduct for employees the Authority may adopt, and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.
- 1.9 Where officers are exercising delegated powers in accordance with Standing Orders they will:
- a) act fairly and openly;
 - b) approach each case with an open mind;
 - c) use adopted policies and guidance as starting and reference points for decision making;
 - d) carefully weigh up relevant issues;
 - e) determine each case on its own merit;
 - f) ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

Application to policy formulation and other planning matters

- 1.10 While this Protocol will most commonly need to be followed in dealing with planning applications, it also applies to consideration of Development Plans, development briefs, enforcement cases and all other planning matters. In particular, the following parts of this Protocol apply to policy formulation and planning issues other than determination of applications:
- a) the duty to declare interests (section 2);
 - b) dealing with lobbying, the duty to reach decisions impartially without 'pre-judging' issues, and attendance at other public meetings (section 4);
 - c) pre-application and pre-decision discussions with applicants or potential applicants (section 5).
- 1.11 However:
- a) subject to the overriding requirement to comply with the Authority's Code of Conduct, and
 - b) providing the discussions do not refer to individual sites,
- this Protocol does not preclude Members from taking part in

discussions on the general principles of land allocation policies in the Development Plan outside the Authority's formal meetings.

- 1.12 Planning legislation requires all planning applications to be determined by reference to the Development Plan, if material to the application, and any other material consideration. Only material planning considerations are to be taken into account. If the Development Plan is material to the application the law provides that the application should be determined in accordance with it unless material considerations indicate otherwise.

Training

- 1.13 Workshops are held from time to time to give guidance to Members on declaring interests and other issues in the Code of Conduct. Members involved in determining planning issues will be required to complete an appropriate level of training on planning matters before being able to serve in that capacity.

2 DECLARATION AND REGISTRATION OF INTERESTS

- 2.1 All Members, whether or not dealing with planning matters, must observe the Authority's Code of Conduct in:
- a) maintaining the general standards of conduct required; and
 - b) disclosing pecuniary and non-pecuniary interests, as appropriate.

Register of Members' interests

- 2.2 Members will have registered all relevant pecuniary and non-pecuniary interests, in the Authority's Register of Members' Interests maintained under the Localism Act 2011. Where any changes occur to a Member's interests the Code of Conduct requires the Member to notify the Monitoring Officer, in writing, within 28 days of becoming aware of the change.
- 2.3 Members who have substantial property interests in the Authority's area, or other interests that would prevent them from voting on a regular basis, should avoid serving on the Planning ~~Development Control~~ Committee.

Members' interests at meetings

- 2.4 The general principle behind the requirement to disclose relevant interests is that a Member should not use his or her position to further a private or personal interest rather than the general public interest, nor give grounds for suspicion that he or she has done so.
- 2.5 Members should refer to the Members' Code of Conduct for information as to when interests arise, when they should be declared, and the implications of this for their continued involvement in the matter. In any case where a Member is in any doubt about their position, advice should be sought from the Monitoring Officer.
- 2.6 The responsibility for declaring an interest lies with the individual Member.

Membership of another Local Authority

- 2.7 A Member who is also a member of another tier of local government may have a declarable interest in a planning application made by a private individual if his or her Parish/Town/District/County Council has submitted observations to the Authority on that application. The interest will not be prejudicial simply because observations have been made or the Member voted at the Parish/Town/District/County Council meeting. However, the Member should have regard to the guidance on pre-judging applications in section 4 of this Protocol.
- 2.8 Members of the Planning ~~Development Control~~ Committee who are also members of another tier of local government should adopt the practice of making it clear, when they participate in a debate on development proposals at a Parish/Town/District/County Council meeting, that the views they express are based on the information before them at that time, and might change in the light of further information and/or debate at the Authority's Committee meeting. Failure to do this may lead to a legal challenge to the Authority's decision on grounds of pre-determination.
- 2.9 The dual-hatted Member may have an interest in relation to a planning application submitted by another authority of which they are a member. In any case where a Member is in any doubt about their position, advice should be sought from the Monitoring Officer.

The representative role

- 2.10 A Member may choose to represent particular views of an individual or section of the community on a planning application. Where the Member advocates or clearly declares their support for or against those views, this will normally mean that the Member is no longer able to act impartially in the determination of that application. Where the Member is a Member of Planning ~~Development Control~~ Committee, they should take no further part in the consideration of, or voting on, that particular

matter. However, where a Member merely reports the views of an individual or section of the community on the application for information purposes, they will normally be able to continue to participate in the consideration of the item, provided they make it clear that they are relaying those views in a reporting, and not representational, capacity.

Membership of lobbying groups

- 2.12 A Member who is also a member of a lobbying group which has publicly expressed support for or against a planning application will certainly have a non-pecuniary interest which should be declared. The interest may also be considered prejudicial, but this will depend on a careful consideration of all the surrounding circumstances, for example the Member's role in the lobbying group and the extent to which the Member is publicly identified with that position.

Group discussions

- 2.13 Although National Park Authorities are non-political organisations Members need to be aware of the potential for attempting to influence the determination of an application. Members cannot accept an instruction from anyone to determine an application in a particular way, as they must determine the issue on its merits. So, while they may give appropriate weight to the views of other Members whether expressed in the Committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any factor which they are not prepared to state in open Committee. As a result it is not appropriate for any group of Members to instruct Members to vote in a particular manner on an application or to apply or threaten to apply any sanction to any Member who voted contrary to the Group's collective view. If such instructions are given Members should declare it in exactly the same manner as they would declare any other attempt at lobbying.

Gifts and hospitality

- 2.14 ~~The Code of Conduct obliges all~~ All Members ~~should to~~ register any interest that they consider may be perceived to influence their decision making on any given item. However, Members dealing with planning matters should be particularly alert to the possibility that they may be called upon to determine, or make representations on, a planning application submitted by someone who has offered may have offered them a gift or hospitality, even if an application has not yet been submitted. Cases where Members have accepted hospitality from planning applicants have been the subject of criticism by the Ombudsman. For this reason, all gifts, of whatever value, should be refused if there is any reason to suspect that the person offering them is an actual or potential planning applicant. If a gift is accepted, its receipt should be notified. If acceptance of a degree of hospitality by Members and/or officers is unavoidable, it should be ensured that this is at a minimum and that its receipt is notified. Members and officers should also consider whether it would be appropriate in a particular case to notify instances where gifts or hospitality have been offered, but refused. If it is, written notification should be sent to the Monitoring Officer. In all cases details will be kept with the Register of Members' Interests.
- 2.15 If an application comes before the Planning ~~Development Control~~ Committee, and a Member has accepted a gift or hospitality from the applicant, that Member should declare receipt of the gift or hospitality. For the reasons given in Paragraph 2.14, care should be taken and advice sought from the Monitoring Officer as to whether this amounts to a prejudicial interest.

3 DEVELOPMENT PROPOSALS SUBMITTED BY OR ON BEHALF OF MEMBERS AND OFFICERS, AND DEVELOPMENT BY THE AUTHORITY

Acting as agents for a planning applicant

- 3.1 Serving Members and officers should never act as agents for individuals (including a company, group or body) pursuing a planning matter.

Planning application by a Member or officer

- 3.2 Proposals submitted by Members and officers should be reported to the Planning ~~Development Control~~ Committee and not dealt with by officers under delegated powers. The Monitoring Officer should be informed of all such proposals as soon as they are submitted. It is the duty of all officers to inform their line manager of any financial interests they have in a matter with which the Authority is dealing. An application for planning permission will give rise to a direct financial

interest. Likewise, the onus is on Members to inform the Monitoring Officer if a planning application relating to property in which they have a personal interest is submitted. Neither employees nor Members should assume that planning officers will otherwise be aware that the application is in respect of their land or property.

- 3.3 If Members or officers submit their own development proposal to the Authority, they should take no part in its processing. Both officers and Members will have the same rights as any member of the public to seek to explain and justify their proposal to an officer in advance of the Committee meeting. A Member exercising this right (providing the general obligations in the Code of Conduct and the Protocol for Member/officer relations, in particular those relating to a Member's duty not to compromise the impartiality of officers, are not breached) should not be regarded as "seeking improperly to influence" the decision or using his position to secure an advantage.

Proposals for the Authority's own development or development on Authority land

- 3.4 Proposals for the Authority's own development (or a development involving the Authority and another party) should be treated in the same way as those by private developers. The same administrative process, including consultation, should be carried out in relation to the Authority's own planning applications, and they should be determined against the same policy background (the Development Plan and any other material planning considerations). This paragraph also applies to private applications on Authority-owned land (e.g. before a land sale is agreed or negotiated). Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Authority if the development is permitted. It is important not only that the Authority treats such applications on an equal footing with all other applications, but is seen to do so.

4 LOBBYING AND REQUIREMENTS RELATING TO PUBLIC MEETINGS

Lobbying of Members by the public or planning applicants

- 4.1 It is inevitable that Members will be subject to lobbying on planning matters and specific planning applications. When Members are lobbied great care is essential to maintain the Authority's, and indeed the Member's own, integrity and the public perception of the planning process.
- 4.2 Members who are likely to be involved in determining a planning matter at any meeting should, before the meeting, simply listen to points of view about the proposal. They should actively take steps to explain that, whilst they can listen to what is said, it prejudices their impartiality

to express a firm point of view or an intention to vote one way or another. (If however they do form a definite view on the proposal, they should be guided by paragraphs 4.7 to 4.8 below). Where the applicant requires planning or procedural advice, he should be referred to officers.

- 4.3 If Members consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer, who will advise the ~~Head of Development Control~~ Executive Director.

Members' duty not to pre-judge applications/lobbying by Members

- 4.4 As a general principle, and taking account of the need to make decisions impartially, Members involved in decision making on planning should not organise support or opposition to a proposal, lobby other Members, act as an advocate, or put pressure on officers for a particular recommendation.
- 4.5 Members need to take account of the general public's expectations (and the expectations of those who might investigate any complaint), that a planning application will be processed in a fair and open manner in which Members making the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments makes them vulnerable to an accusation of partiality. Members should not indicate (or give the impression of) support for or opposition to a proposal in a manner which suggests they have a closed mind to any views or further information which may be available at the meeting at which the matter is discussed. In particular Members should not declare their voting intention before the meeting at which a decision is to be taken. To do so without all relevant information and views would be unfair and prejudicial and may amount to maladministration.
- 4.6 Whilst Members involved in making decisions on planning matters will begin to form a view as more information and options become available, a decision can only be taken by the Planning ~~Development Control~~ Committee when all available information is to hand and has been duly considered. Individual Members should reach their own conclusions on an application or other planning matter rather than follow the lead of another Member. Decisions can only be taken after full consideration of the officers' report and information and discussion at the Committee.
- 4.7 If a Member does appear fully to commit themselves to a particular view on a planning issue before it is considered at Committee or a meeting of the full Authority, the public, or any other person, might well believe the Member had prejudiced their position and could not take part in a debate on the full facts before determining the application. If a Member has openly advocated a particular course of action, or feels

that the public would reasonably believe he had come to a conclusive view on the matter before the meeting, he should leave the meeting room and take no part in the debate nor vote on the application. Where a Member wants to act as a representative of his or her electoral area they should declare this fact and not vote (see paragraph 2.10).

- 4.8 Where the Monitoring Officer believes that a Member has prejudiced his position by expressing a conclusive view on an application before the Committee determines it, the Monitoring Officer will advise the Member that it would be inappropriate for him to be present at the meeting or to vote on the application. If the Member does not follow the Monitoring Officer's advice, the Monitoring Officer will consider referring the matter to the Standards Committee.

Members' and officers' attendance at other public meetings

- 4.9 Officers, and Members who intend to take part in the decision-making process, should be very cautious about attending meetings in connection with development proposals or submitted planning applications, unless those meetings have been arranged for the purpose of disseminating information by the Authority, or by an appropriate local body, (such as a Parish Council), that is not openly advocating support for or opposition to the proposal, or unless it is known that those with different views will also be attending, so that a balance of views will be expressed. Members should take advice from the ~~Development Control Manager~~Executive Director or Monitoring Officer before deciding whether to attend meetings that appear to have been organised for lobbying purposes.
- 4.10 When attending public meetings of any kind officers and Members should do no more than explain background or policy, and should give no view on the merits or otherwise of the proposal. It should be explained that a decision can only be made when all relevant information is available. The reason for being cautious and taking advice beforehand, particularly for Members involved in the decision-making process, is that those with opposing views could make allegations of bias or prejudice because a balance of views was not presented. In some circumstances Members might feel it is valuable to attend meetings to listen to particular points of view, but should always make it clear that they must also listen to opposing arguments before reaching any conclusion.

5 PRE-APPLICATION AND PRE-DECISION DISCUSSIONS WITH APPLICANTS

Action by officers

- 5.1 In any discussions on planning issues, officers will always make it clear at the outset that any views they express are based on the officer's provisional professional judgement and do not commit the Authority to any particular decision.
- 5.2 Advice given will be consistent and based upon the Development Plan and other material considerations. Every effort will be made to ensure that there are no significant differences in interpretation of planning policies between planning officers.
- 5.3 Officers taking part in discussions should make it clear whether they or the Committee are likely to take the decision, or if this is not yet known, the criteria used to decide whether an application is referred to the Committee.
- 5.4 Where the planning officer considers it appropriate, a written note of discussions will be made, and/or a follow up letter sent explaining the conclusions of the discussion. Two or more officers will attend potentially contentious meetings.

Attendance by Members at officers' pre-application or pre-decision discussions

- 5.5 To maintain impartiality it is normally not good practice for Members to take part in officers' discussions with applicants. If Members are involved, they will be advised by the appropriate professional officers of the Authority, which will always include a senior planning officer. Members should not seek to advise applicants, their agents or objectors on the likely acceptability of planning proposals. The involvement of Members in such discussions will be recorded as a written file record.

6 SITE VISITS

- 6.1 If a site visit is undertaken its purpose is for Members to gain knowledge of the development proposal, the application site and its relationship to adjacent sites. It is not a formally convened meeting that is open to the public, applicants and objectors. Members and officers may not discuss the merits of the application at the site visit.
- 6.2 Following site visits officers will prepare reports on the planning issues and any relevant information obtained from the site visit to enable the Planning ~~Development Control~~ Committee to determine the application.

- 6.3 The ~~Development Control Manager~~Executive Director will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site visit and the format and conduct of the visit. Written procedures setting out the purpose and conduct of site visits shall be maintained and communicated to all parties.

Informal site visits

- 6.4 It is often helpful if Members familiarise themselves with a site before the application is debated by the Committee. However, Members should be aware that the Code of Conduct, and this Protocol, apply to them should they become involved in any conversation with a member of the public while visiting a site. Members are reminded that they have no legal right to enter private land without the permission of the owner or occupier.

7 OFFICER REPORTS TO COMMITTEE

- 7.1 Reports to Committee on planning matters must be accurate and cover all relevant points, including the substance of any objections and the views of those consulted. Where a planning application is subject to a full report this will refer to the provisions of the Development Plan, and all other relevant material planning considerations.
- 7.2 All reports will have a written recommendation of action/decision, and oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur.
- 7.3 All reports will contain a technical appraisal that clearly justifies the stated recommendation.
- 7.4 All reasons for an officer recommendation must be clear and unambiguous.
- 7.5 Members will not seek to interfere with the impartiality of the advice contained in officers' reports or to put improper pressure on officers for a particular recommendation. This would be contrary to the Code of Conduct, which requires Members not to do anything which compromises, or is likely to compromise, officers' impartiality.
- 7.6 If the officers' report recommends approval of a departure from the Development Plan, the material considerations justifying the departure must be clearly stated in the report.

8 THE DECISION MAKING PROCESS

Public participation

- 8.1 At meetings of the Planning ~~Development Control~~ Committee interested parties will be allowed to address Members in accordance with the scheme of public participation in operation at the time of the meeting.

Decisions contrary to officer recommendation

- 8.2 In discussing, and then determining, a planning application or other planning matter Members will confine themselves to the planning merits of the case. The reasons for making a final decision should be clear and convincing, and supported by planning evidence. If Members wish to refuse an application against officer advice, or impose additional conditions on a permission, the reasons for refusal or the additional conditions must be clearly stated at the time the propositions are moved at the meeting.
- 8.3 If Members wish to approve an application that has been advertised as not in accordance with the development plan contrary to the officer's recommendation, the material considerations leading to the conclusion must be clearly identified, and how those considerations justify overriding the development plan clearly demonstrated. The material considerations, and the justification, will be minuted.
- 8.4 If a resolution is passed which is contrary to an officer's recommendation (whether for approval or refusal) a copy of the minute showing the Committee's reasons will be placed on the application file. Officers should also be given the opportunity to explain the implications of a contrary decision before a vote is taken.

Conduct of meetings

- 8.5 Conscious of the public arena in which planning decisions are made, Members will conduct the business of the Planning ~~Development Control~~ Committee in a fair and sensitive manner. Members and officers will address one another during the debate in a professional manner.
- 8.6 Legal and planning officers should always attend meetings of the Planning ~~Development Control~~ Committee, to ensure that procedures have been properly followed and planning issues properly addressed.
- 8.7 As well as declaring relevant pecuniary and non-pecuniary interests (paragraphs 2.4-2.6) Members will follow the Code of Conduct requirement not to do anything contrary to the principles of promoting equality and diversity; to treat others with respect; and not to use his or her position improperly to secure for any person an advantage or disadvantage. In particular, Members should take care when addressing the meeting to avoid making statements that might

reasonably be regarded as stereotyping particular sections of the community.

- 8.8 Care should be taken by Members before introducing new information into the debate at the Committee as that might lead to consideration of an application being deferred or the Committee taking a decision on the basis of information which subsequently proves to be incorrect. Where a Member receives relevant information in respect of an application which is not contained in the Committee report whenever possible the Member should advise the Executive Director~~Development Control Manager~~ directly so that the information can be confirmed before the Committee meeting.

Appeals against planning decisions

- 8.9 Where an appeal arises against a decision to refuse an application, officers will represent the views of the Authority at the appeal. The Committee may be requested to agree to Members giving evidence at the appeal on the reasons for the Committee's decision, particularly where the decision was not in accordance with the officer's recommendation. Officers will give support to the relevant Committee Members in preparing such evidence.
- 8.10 Where a Member wishes to support the Authority, or an appellant, on any appeal against an Authority decision on a planning matter, that Member shall as a matter of courtesy give written notice of his or her intention to the Monitoring Officer and the appellant. Where the appeal is to be dealt with at an inquiry, the notice shall be delivered to the Monitoring Officer and the appellant normally not less than five working days before the start of the inquiry.
- 8.11 In deciding whether to make representations on an appeal Members should consider very carefully beforehand whether there could be any allegation that they are in breach of this Protocol or any other provisions in the Code of Conduct.

9 REVIEW OF DECISIONS

- 9.1 The ~~Development Control Manager~~Executive Director and Chairman of the Planning ~~Development Control~~ Committee will monitor Planning ~~Development Control~~ Committee decisions on a continuous basis. If concerns arise relating to decisions made contrary to the officer's recommendation, these concerns will be reported to the Authority.

10 COMPLAINTS AND RECORD KEEPING

- 10.1 In order that any complaints can be fully investigated, record keeping will be complete and accurate. In particular, every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone

conversations. The same principles of good record keeping will be observed in relation to enforcement and Development Plan matters. Monitoring of record keeping will be undertaken on a continuous basis by planning managers.

11 Breaches of the Protocol

- 11.1 Allegations of specific breaches of this protocol by a Member will be dealt with under the National Park Authority's arrangements for dealing with allegations; allegations of specific breaches by officers will be dealt with under the Authority's complaints procedure. More general concerns about relationships between Members and officers or perceived breaches of the principles embodied in this Protocol can be discussed with the Authority's Monitoring Officer.

Protocol adopted December 2007

Amended and updated ~~July 2012~~March 2020