

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**



11 October 2019

Our Ref Standards Committee 22.10.19  
Your Ref.  
Contact. Committee Services  
Direct Dial. (01462) 474655  
Email. Committee.services@north-  
herts.gov.uk

To: The Chairman and Members of the Standards Committee of North Hertfordshire District Council

District Councillors	Councillors Judi Billing MBE (Chairman), Ruth Brown (Vice-Chairman), Kate Aspinwall, Clare Billing, Sam Collins, David Levett, Gerald Morris, Sean Prendergast, Mike Rice, Martin Stears-Handscomb, Claire Strong and Richard Thake
(Substitutes: Councillors	Councillors Ian Albert, Paul Clark, George Davies, Simon Harwood, Lisa Nash and Deepak Sangha)
Parish Councillors	Town Councillor Amy Bourke-Waite, Parish Councillor Helena Gregory and Parish Councillor Dr Julia Magill MBE, (Co-opted non-voting Members)
Independent Persons	Nicolas Moss OBE - Independent Person Peter Chapman – Reserve Independent Person (Advisory roles)

You are invited to attend a

**MEETING OF THE STANDARDS COMMITTEE**

to be held in the

**COUNCIL CHAMBER, COUNCIL OFFICES, GERON ROAD,  
LETCWORTH GARDEN CITY**

On

**TUESDAY, 22ND OCTOBER, 2019 AT 7.30 PM**

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Thompson', written over a thin horizontal line.

Jeanette Thompson  
Service Director – Legal and Community

## **Agenda** **Part I**

<b>Item</b>	<b>Page</b>
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. MINUTES - 19 FEBRUARY 2019</b> To take as read and approve as a true record the minutes of the meeting of the Committee held on the 19 February 2019.	(Pages 5 - 8)
<b>3. NOTIFICATION OF OTHER BUSINESS</b> Members should notify the Chairman of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.  The Chairman will decide whether any item(s) raised will be considered.	
<b>4. CHAIRMAN'S ANNOUNCEMENTS</b> Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
<b>5. PUBLIC PARTICIPATION</b> To receive petitions, comments and questions from the public.	
<b>6. STANDARDS MATTERS</b> REPORT OF THE SERVICE DIRECTOR - LEGAL & COMMUNITY / MONITORING OFFICER  To update Members of the Committee on standards issues generally.	(Pages 9 - 14)
<b>7. PLANNING CODE OF GOOD PRACTICE</b> REPORT OF THE LEGAL REGULATORY TEAM MANAGER / DEPUTY MONITORING OFFICER  The report details changes to the Council's Planning Code of Good Practice as part of its review.	(Pages 15 - 36)

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### STANDARDS COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, COUNCIL OFFICES,  
GERNON ROAD, LETCHWORTH GARDEN CITY  
ON TUESDAY, 19TH FEBRUARY, 2019 AT 7.30 PM

### MINUTES

**Present:** *Councillors Mike Rice (Chairman), Councillor David Levett (Vice-Chairman), Julian Cunningham, Steve Deakin-Davies and Bernard Lovewell.*

*Parish Councillor Gary Hills*

*Nicholas Moss (Independent Person) - non-voting advisory role*

#### 14 APOLOGIES FOR ABSENCE

*Audio Recording – Start time of Item – 23 seconds*

Apologies for absence were received from Mr Peter Chapman; Parish Councillor Lee Gregory and District Councillors Paul Clark, Terry Tyler and Judi Billing.

Councillor Ian Albert attended as the substitute Member for Councillor Judi Billing.

#### 15 MINUTES - 20 FEBRUARY 2018

*Audio Recording – Start time of Item – 50 seconds*

**RESOLVED:** That the Minutes of the Meeting of the Committee held on 20 February 2018 be approved as a true record of the proceedings and be signed by the Chairman.

#### 16 NOTIFICATION OF OTHER BUSINESS

*Audio Recording – Start time of Item – 1 minute and 30 seconds*

There was no other business notified.

#### 17 CHAIRMAN'S ANNOUNCEMENTS

*Audio Recording – Start time of Item – 1 minute and 37 seconds*

The Chairman announced that:

- 1) In line with Council Policy, the meeting was being recorded;
- 2) In line with the Code of Conduct, any Declarations of Interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and Members were required to be notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item;

Members declaring a Declarable Interest, who wished to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote;

- 3) Reference was made to the cards specifically allocated to each individual member of the Committee in the base units of the audio equipment. The Committee was requested to not remove the cards from the units;
- 4) There was no public participation.

## 18 STANDARDS MATTERS AND RECOMMENDATION ON BEST PRACTICE CHANGES

*Audio Recording – Start time of Item – 3 minutes and 7 seconds*

The Service Director – Legal and Community/Monitoring Officer presented a report in respect of standards issues including the Government's response to the consultation on updating disqualification criteria for local authority members; and the Committee on Standards in Public Life (CSPL) report on ethical standards, with recommendations on changes.

In response to the presentation, questions were raised by the following Members of the Committee:

- Councillor Cunningham
- Councillor Albert
- Councillor Levett
- Councillor Deakin-Davies
- Councillor Lovewell
- Mr Nicholas Moss

Having considered the best practice recommendations that the CPSL expected all local authorities to implement, the Committee agreed to proceed with the following:

Best Practice 6: The Council's Complaints Handling Procedure includes Standards Complaints assessment criteria. The Monitoring Officer would review this with the Chairman and Independent Persons, and make appropriate amendments to include a public interest test.

Best Practice 8: It was already the Council's best practice that an Independent Person was consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial. However, the Complaints Handling Procedure and the role would be amended following discussions with the Chairman and Independent Persons.

The Council had one formal investigation and hearing in recent years and the determination was published. The Committee agreed to not progress consideration of publishing the outcome of complaints investigated and not upheld at this given time.

Regarding the complaints/issues that had been considered since the last Committee meeting the Committee referred to an informal complaint by an employee of alleged comments, where the respective Councillor had denied such comments and had offered to speak to the individual. It was explained that often employees were reluctant to submit formal complaints against Councillors, as was the case in this instance. The Committee agreed that in future reports to the Committee would only include formal complaints.

Having fully discussed and considered the report it was

**RESOLVED:** That the Committee:

- i. notes the Government's response to the disqualification criteria recommendations;
- ii. notes the content of the Committee on Standards in Public Life (CSPL) report and recommendations; and
- iii. instructs the Monitoring Officer to review best practice recommendations with the Chairman and Independent Persons with a view to making appropriate changes in line with the CSPL's best practice recommendations (6 and 8).

**REASON FOR DECISION:** To ensure good governance within the Council.

Chairman

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**STANDARDS COMMITTEE  
22 OCTOBER 2019**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: STANDARDS MATTERS**

REPORT OF THE SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER

COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

**1. EXECUTIVE SUMMARY**

1.1 The report updates Members of the Committee on standards issues generally.

**2. RECOMMENDATIONS**

2.1. That the Committee notes the content of the report.

**3. REASONS FOR RECOMMENDATIONS**

3.1 To ensure good governance within the Council.

**4. ALTERNATIVE OPTIONS CONSIDERED**

4.1 None.

**5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

5.1 Group Leaders and the Standards Committee Chair are kept informed of Monitoring Officer and standards matters on a monthly basis. The Monitoring Officer also holds quarterly meetings with the Independent Person, Reserve Independent Person ('IPs') and the Chair of Committee.

**6. FORWARD PLAN**

6.1 This report does not contain a recommendation on an Executive key decision and has not been referred to in the Forward Plan.

**7. BACKGROUND**

7.1 Within its terms of reference the Standards Committee has a function "to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority". The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist to govern, Member conduct.

## 8. RELEVANT CONSIDERATIONS

### **Committee on Standards in Public Life (CSPL) Local Government Ethical Standards**

- 8.1. Members will be aware that the CSPL published a report with 26 recommendations on ethical standards in local government on 30 January 2019, as reported to the February 2019 Committee<sup>1</sup>.
- 8.2. Ordinarily the government would have responded to this report (within 3 months). No response has materialised. In the meantime the CSPL has:
- established an Association of Democratic Services Officers/ Lawyers in Local Government 'LLG'/ Society of Local Council Clerk task force, to help take forward the report's recommendations. The LLG also said it was working with the Ministry of Housing, Communities and Local Government on the proposed Code of Conduct and was also scoping a guidance document looking at best practice in the professional relationship between statutory officers (in governance terms known as the 'Golden Triangle').
  - reported at their meeting in July 2019 that they would write to the relevant Minister asking for a formal response to the review<sup>2</sup>. No further update is available on the CSPL page at the point of writing this report.

### **Intimidation in Public Life**

- 8.3. The CSPL is continuing to monitor the developments and have been meeting with the Fawcett Society to discuss harassment of women in politics, and with the Jo Cox Foundation on a joint 'standard' around conduct and behaviour – which is consistent with their report and the need to recognise and address intimidation, harassment and abusive behaviour.

### **Open letter from the Committee on Standards in Public Life to all public office holders**

- 8.4. Following various heated exchanges in Parliament and allegations regarding behaviour, an open letter was published on 20 September by the Chair of the CSPL<sup>3</sup>, on the importance of maintaining high standards and adhering to the long established Nolan Principles that set the tone of leadership across public service.

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<sup>1</sup> <https://democracy.north-herts.gov.uk/ieListDocuments.aspx?Cid=154&Mid=2023&Ver=4>

<sup>2</sup> [CLICK HERE for Minutes of CSPL meeting 18.7.19](#)

<sup>3</sup> [Letter from Jonathan Evans Chair CSPL 20.9.19](#)



- 8.5. For further information of the CSPL work, see its Annual report (18-19) published on 29 July 2019<sup>4</sup>.

**NHDC**

**North Hertfordshire complaints/ issues update**

- 8.6. The following formal complaints<sup>5</sup> were considered since the last Committee meeting in February 2019 and in line with recommended practice these have summary of Parish/ District Councillor and complaint outcome:-

Complaint about: Parish/ Town or District Councillor	Summary of complaint	Action
2/2019 complaint regarding Royston Town Council	Seeking intervention following issues with the Council over arrangements.	No action as there is no remit to examine or intervene with actions of the council as a body.
3/2019 complaint against Pirton Parish Councillor	Alleged bullying and intimidatory behaviour.	No case to answer.
5/2019 complaint against District Councillor.	Alleged breach of - comments on Facebook group	Complainant withdrew their complaint.
6/2019 complaint against District Councillor.	Alleged conflict of interest and breach of Code regarding a planning application	Case to answer regarding Planning Code of Good Conduct and training to be provided.
7/2019 complaint against District Councillor.	Alleged behaviour outside of role as a Councillor.	No case the answer as no evidential basis to any of the allegations.
10/2019 complaint against District Councillor.	Attendance at the planning control committee to represent residents, was biased.	No case to answer.
11/2019 complaint against District Councillor and Pirton Parish Councillor.	Alleged behaviour at planning control committee.	No case to answer.
13/2019 complaint against Great Ashby Community Councillor	Alleged insensitive and offensive during a council meeting.	No case to answer.
14/2019 complaint against Great Ashby Community Councillor	Alleged not behaving in a "neighbourly" way.	Ongoing.
15/2019 complaint against District Councillor	Alleged inappropriate, malicious and vexatious complaint had been made and the Councillor was biased.	Ongoing.
16/2019 complaint against Great Ashby Community Councillor	Alleged offensive language used (similar to 13/2019).	Ongoing.

<sup>4</sup> [CLICK HERE for link to CSPL 2018-19 report](#)

<sup>5</sup> Informal complaints raised with the MO not included in list as requested by Committee in February 2019.

### **Councillor Complaints Handling Procedure reviewed and updated 2019**

- 8.8 Following the last Committee meeting the Complaints Handling Procedure was reviewed by the Monitoring Officer, the then Chair and IPs in the light of the CSPL report in April and published in May following the end of the pre-election period. It is available on the Council's webpage<sup>6</sup>.

### **Member training 2019**

- 8.9 Training was arranged for Members as part of an Induction programme (two sessions in May 2019), covering an overview of the Constitution (Procedure & Rules), the Councillor Code of Conduct, the Members Planning Code of Good Practice and the Protocol for Member/ Officer Working arrangements. This was reasonably well attended by some existing as well as the newly elected Councillors.
- 8.10 In terms of wider District training, however, discussions have taken place in the regular IPs / Chair meetings, and potentially facilitating this in the District with the Hertfordshire Association of Parish and Town Councils, and the Society for Local Council Clerks (once the Government has responded to the CSPL's report and a timeline for changes has emerged for any Model Code and Parish/ Town and Community Councillors complying with the Principal authority's approved version). Arrangements will be considered once a Government response has been published.

### **Audit review of Governance arrangements 2019**

- 8.11 Whilst internal audit reviews are undertaken through a joint Shared Internal Audit Service (SIAS) and reported through to the Finance, Audit and Risk Committee, Committee Members may wish to know that a Corporate Governance Review was undertaken in May 2019 – which reported on the post reorganisation arrangements (Constitution, Financial Regulations and Contract Procedure Rules, current roles and responsibilities and updated policies and procedures) and this received the highest rating (Good).

### **Recruitment and co-option of further Parish and Community Council representatives to Standards Committee**

- 8.12 One of the then two Parish/ Community Council representatives resigned in May 2019 and therefore a recruitment exercise was undertaken in June-July. Following interviews in July by a Panel, consisting of the IPs, Chair of Standards Committee and the Monitoring Officer, a recommendation was made to Full Council to increase the Parish/ Town/ Community Councillor membership of the Standards Committee up to 4 (from 2) and to then appoint Cllr Dr Julie Magill MBE of Barkway Parish Council and Cllr Amy Bourke-Waite of Royston Town Council. These recommendations were approved on 11 September and the new co-opted Councillors are welcomed to this Committee. The report and decision can be found by clicking on this page link: [Full Council 12.9.19](#)

## **9. LEGAL IMPLICATIONS**

- 9.1 The terms of reference of the Standards Committee include at paragraph 7.5.1 of the Constitution "to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority".

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<sup>6</sup> <https://www.north-herts.gov.uk/home/customer-services/complaining-about-councillor>

**10. FINANCIAL IMPLICATIONS**

10.1 There are no capital or revenue implications arising from the content of this report.

**11. RISK IMPLICATIONS**

11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

**12. EQUALITIES IMPLICATIONS**

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.

12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest. The review of the best practice recommendations and appropriate changes will ensure that NHDC will continue demonstrate due regard to the objectives of the Public Sector Equality duty.

**13. SOCIAL VALUE IMPLICATIONS**

13.1 The Social Value Act and “go local” policy do not apply to this report.

**14. HUMAN RESOURCE IMPLICATIONS**

14.1 None. The work outlined within the report is within the caseload of the Monitoring Officer and the legal team.

**15. APPENDICES**

15.1 None.

**16. CONTACT OFFICERS**

16.1 Jeanette Thompson Service Director: Legal and Community (& Monitoring Officer):  
[Jeanette.thompson@north-herts.gov.uk](mailto:Jeanette.thompson@north-herts.gov.uk) ext 4370

**17. BACKGROUND PAPERS**

17.1 None other than those referred to/ linked above.

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**STANDARDS COMMITTEE  
22 OCTOBER 2019**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: PLANNING CODE OF GOOD PRACTICE REVIEW**

REPORT OF THE LEGAL REGULATORY TEAM MANAGER / DEPUTY MONITORING OFFICER

COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

**1. EXECUTIVE SUMMARY**

- 1.1 The report details changes to the council's Planning Code of Good Practice as part of its review.

**2. RECOMMENDATIONS**

- 2.1. That the Standards Committee recommends to Full Council that the Planning Code of Good Practice as amended and contained at Appendix A be adopted

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To ensure good governance within the Council and that the Council's Planning Code of Good Practice remains fit for purpose and is consistent with best practice.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None.

**5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1 Group Leaders and the Standards Committee Chair are kept informed of Monitoring Officer and standards matters on a monthly basis. The Monitoring Officer and Deputy Monitoring Officers also hold quarterly meetings with the Independent Person, Reserve Independent Person ('IPs') and the Chair of Committee.

**6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on an Executive key decision and has not been referred to in the Forward Plan.

## **7. BACKGROUND**

- 7.1 Within its terms of reference the Standards Committee has a function “to advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council” The Committee will therefore be asked to comment on updates to the Planning Code of Good Practice before it is put to Full Council for adoption.
- 7.2 The Planning Code of Good Practice is accessible at Appendix 3 to Section 8 of the Council’s Constitution.
- 7.3 The Council’s current Planning Code of Good Practice is based on the Model Member’s Planning Code (the Model Code) produced by Lawyer in Local Government (LLG) and was adopted by the Council on 3 September 2015.
- 7.4 The Model Code was first produced in 2003 in response to a series of successful court challenges concerning local planning authorities and their Members’ Conduct of Conduct and/or conflicts of interests. It replaced a number of individual and sometimes haphazard approaches that existed in individual councils at the time.
- 7.5 The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of the Association of Council Secretaries and Solicitors (now LLG), the Local Government Association, the Local Government Ombudsman, Audit Commission and from firms of solicitors or barristers acting on their behalf.
- 7.6 Following its publication, the Model Code proved to be one of the most successful and popular guidance documents produced by LLG, being adopted by councils across the country.
- 7.7 The NHDC code went to Full Council on 3 September 2015 before going back to Standards Committee in March 2016 at which it was agreed to review it again at the October 2016 meeting, which resolved -

*(3) That, in respect of the Planning Code of Good Practice, the Monitoring Officer be requested to make minor amendments to the wording of Section 4 to make it sufficiently clear that explanation of the procedure could be discussed;*

*(4) That, subject to (3) above and the correction of typographical errors, the Planning Code of Good Practice be supported.*

## **8. RELEVANT CONSIDERATIONS**

- 8.1. In 2018, the Supreme Court gave its approval of the Model Code when it described it as “useful advice” and “sound practical advice” in a ruling (*R (CPRE Kent) v Dover District Council (SC(E)) 2018 1 WLR*).

8.2. The NHDC Planning Code of Good Practice, whilst broadly identical to the Model Code, contains some differences to the LLG version. The main differences between the two are detailed in Appendix B along with comments on the effect those differences have.

8.3. The amendments in this review are:

- Part 2 – Removal of reference to pre-application advice and members with DPI or Declarable interest, this is because members are only informed of advice on major applications upon completion of pre-application advice (it should be noted that many of these ‘majors’ are not completed but proceed midway through to an application).
- Part 3 – Substituting the word “provided” for “completed” as this is less ambiguous.
- Part 4 – First bullet point: Inserting the words “or appear as a substitute” in order to cover off this eventuality.  
Second bullet point: Deleting the word “formal” when describing meetings, as this could cause confusion where a meeting is proposed to take place in an otherwise informal setting, such as an applicant’s home for example.  
Third bullet point: Inserting reference to Service Director - Regulatory  
Fourth bullet point: Inserting paragraph to cover off appearing as a substitute in order to cover off this eventuality, and also addressing the situation concerning Ward advocates not sitting on those items they have acted on.
- Part 5 – Clarification around the situation where a member has acted as a Ward advocate.
- Part 6 – Removal of CPRE from an example of special interest group, as they now identify as a lobbying group.
- Part 7 – Clarification on how to request a site visit.
- Part 8 – Clarification of when member of the public may attempt to make contact with members, to avoid ambiguity.
- Part 9 – Updating job titles in line with the council’s restructure.
- Part 10 – Referring to previous decisions in similar cases. This is due to the courts recently highlighting that the earlier decisions of a planning committee are a very important material considerations when applications are on the same site and for similar development proposals.
- Part 11 – First and third bullet point: Tying the Code in with the Council’s Corporate Enforcement Policy.
- Part 13 – Clarifying that the Code of Conduct applies first and then the Planning Code of Good Practice.

8.4. The proposed changes help to remove ambiguity, address the situation where members may be appearing as a substitute, as well as making it clear that members are free to act as ward advocates and the implication of this.

## **9. LEGAL IMPLICATIONS**

9.1 The terms of reference of the Standards Committee include at paragraph 7.5.10 of the Constitution “to advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council”.

9.2 The Code assists to regulate Member actions and ensure good governance. It also assists transparency of decision making and sets expectations as to how Councillors approach planning matters. This helps to ensure that the Council's decision making on planning matters is robust and reduces the potential for successful appeals or challenges to decisions. This Code follows best practice and assists the Council to fulfil its statutory duty to promote and maintain high standards of conduct for both Members and Officers.

## **10. FINANCIAL IMPLICATIONS**

10.1 There are no capital or revenue implications arising from the content of this report.

## **11. RISK IMPLICATIONS**

11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

## **12. EQUALITIES IMPLICATIONS**

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.

12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest. The review of the best practice recommendations and appropriate changes will ensure that NHDC will continue demonstrate due regard to the objectives of the Public Sector Equality duty.

## **13. SOCIAL VALUE IMPLICATIONS**

13.1 The Social Value Act and "go local" policy do not apply to this report.

## **14. HUMAN RESOURCE IMPLICATIONS**

14.1 None. The work outlined within the report is within the caseload of the Deputy Monitoring Officer and the legal team.

## **15. APPENDICES**

15.1 Appendix A – Amended Planning Code of Good Practice

15.2 Appendix B – Comparison between NHDC Planning Code of Good Practice and the LLG Model Code

## **16. CONTACT OFFICERS**

16.1 James Ellis; Legal Regulatory Team Manager and Deputy Monitoring Officer:  
[james.ellis@north-herts.gov.uk](mailto:james.ellis@north-herts.gov.uk) ext 4319



**17. BACKGROUND PAPERS**

17.1 None other than those referred to/ linked above.

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## NORTH HERTFORDSHIRE DISTRICT COUNCIL'S MEMBER'S PLANNING CODE OF GOOD PRACTICE<sup>1</sup>

### Introduction

**The aim of this Planning Code of Good Practice (the 'Code'):** to ensure that there are no grounds for suggesting that a decision is biased, partial or not well founded in the planning process.

One of the key purposes of the planning system is to regulate development and use of land for the public interest. If you are a Member of the Planning Control Committee ('the Committee') your role is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. If you are any other NHDC Member, your role is to ensure that a democratic, fair and transparent process is followed through your role as Ward advocate.

**When the Code applies:** this Code applies to all Members at all times when involving themselves in the planning process, whether you are a Member of the Committee or not (this includes pre-application discussions, briefings, when taking part in the decision making meetings of the Council or when involved on less formal occasions, such as meetings with Officers, the public, consultative meetings and acting as Ward advocate). This includes not only **planning applications/ proposals**, but also **planning enforcement** or **site specific policy issues**.

**If you have any doubts about how this Code applies to you please seek advice from the Monitoring Officer or one of his/her staff, preferably well before any meeting takes place. As planning is an area of Council business that the public are interested in, remember to consider how your actions will be viewed by them.**

### 1. Relationship to the Members' Code of Conduct ('Code of Conduct')

- **Do** apply the Code of Conduct first, as this must always be complied with. Frequently specific issues will arise on interests: Disclosable Pecuniary Interests ('DPIs') and any Declarable interests (as set out in Part 2 of the Code of Conduct). However, other matters such as making sure you are not seen to misuse your position, or disclose sensitive confidential information – and abiding by the seven Principles of Public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership set out under Appendix B of the Code of Conduct, will also be relevant.
- **Do** then apply this Code, as it seeks to explain and supplement the Code of Conduct and in basic terms the law on the planning process. If you do not abide by this Code, you may put:
  - the Council at risk of appeals, or legal challenges on the legality of the decision or complaints of maladministration; and
  - yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions - a complaint may be made to the police to consider criminal proceedings and/ or the Standards Committee.

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<sup>1</sup> Based on the Lawyers in Local Government Model Council Members' Planning Code or Protocol 2014.

## 2. Development Proposals and Interests

The Principle of Integrity is key to decision making and is defined in these terms:

*“Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**”.*

**So:**

- **Don't** get involved at any stage of the determination of an application if you have an interest in it. **That includes involvement in pre-application discussions or negotiations with an Officer or Members.** If you have an interest you may nominate someone to make representations on your behalf. You may make representations in writing. ~~Members with a DPI or Declarable Interest will not be notified of pre-application advice, if Officers are aware of the interest.~~
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to conclude that you are receiving preferential treatment, because you are a Councillor.
- **Don't** act as Ward advocate if you have a DPI or Declarable Interest.
- **Do** notify the Monitoring Officer in writing where it is clear you have a DPI or other Declarable Interest and the existence and nature to other relevant Officers.

Also note:

***If this is your DPI:***

- you should send the notification no later than submission of that application or as *soon as you are aware that the application has been made* (e.g. if this is you or your spouse's employer you may only become aware at a later date);
- **if this is your application** this will always be referred to the Committee for decision and not dealt with by Officers under delegated powers;
- you must not get involved in the processing of the application; and
- you should use an agent to liaise and correspond on your behalf and deal with Officers, attend and speak on your behalf in the public speaking session at Committee.

***If this is a Declarable Interest:***

- Do not get involved in trying to refer the proposal to Committee.
- Ask another Councillor to deal with this with Officers or speaking at Committee as Ward advocate.
- **Exceptions are detailed below for Multi-hatted Members.**

### 3. Pre-determination, bias, reasonableness and fettering discretion in the Planning Process

You are a democratically accountable decision-taker who has been elected to provide and pursue policies. You are entitled to be predisposed towards an outcome provided you have not pre-determined a proposal or be seen to have done so. To ensure that is the case (i.e. that you have approached this in a reasonable and unfettered way) you must give due consideration to all representations, Development Plan documents and material planning considerations (which will be set out in any Planning Case Officer's report that comes before Committee). Members must have and be seen to have an open mind on a planning application.

#### So:

- **Don't** get involved in pre-application advice or negotiations other than providing general advice on the planning process/ or procedure<sup>2</sup>. Planning Officers will deal with this, and applicants are made aware that this is not binding on the authority. Pre-application advice is available for all applications and encouraged for certain types of applications. Ward Councillors (and other Councillors as thought appropriate) will be informed if pre-application advice has been ~~provided~~ completed for Major<sup>3</sup> applications. Active involvement of Committee Members in a proposal prior to determination is likely to lead to an appearance of bias and/or predetermination if the Committee becomes the decision making body
- **Don't** do or say anything to make it appear that you have reached a conclusion on any planning proposal prior to the formal decision being made i.e. don't "fetter your discretion" by approaching the decision with a closed mind.
- **Do** listen to the views of Officers, applicants and objectors and debate at the Committee meeting i.e. keep an open mind in the light of all the evidence and arguments. You should only take account of the Development Plan documents and material planning considerations and must disregard irrelevant issues and considerations.
- **Do** be aware that you will be perceived as biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being a chief advocate for the proposal.

***Multi-hatted Members (i.e. where you are elected/ appointed to another local government body e.g. County or Parish/ Town Council): In all cases declare the nature of your Declarable Interest before the item is considered***

#### ***Where the external body is only a consultee on the application:***

- **Do** take part in the debate on a proposal when acting as part of a consultee body, provided:
  - you make it clear that your views are expressed on the limited information before you only;
  - you 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 Committee and you then hear all of the relevant information; and

<sup>2</sup> Amended under delegated authority of the Monitoring Officer section 14.6.19(c)(d) of the Constitution, following resolution of Standards Committee 12 October 2016.

<sup>3</sup> As defined under Art. 2 The Town and Country Planning (Development Management Procedure) (England) Order 2015

- you do not commit yourself or others may vote when the proposal comes before the Committee.

You should then be in a position to attend, debate and vote on the item at the Committee. If the body is affected in other ways by the proposal you should consider seeking specific advice from the Monitoring Officer.

**Where the external body is the decision maker (such as the Hertfordshire County Council) and this Council is a consultee and the public interest test is met:**

- **Do** feel you can choose whether to involve yourself in the District consultation debate and vote, or observe. You can observe the District Committee discussions if you wish to participate in the County Council decision. If the external body has a Monitoring Officer and you are unsure whether to take part, seek his/her advice.

**Where the external body is the applicant:**

*If you have been a chief advocate:*

- **Don't** take part in the Committee debate or vote as the Public Interest test is likely to be met. You may exercise speaking rights, but should follow the process set out below\* if you do. Seek advice if you are unsure.

*If you have not been a key advocate or had a significant role in the proposal:*

- **Do take part** if you have not committed yourself, as the Public interest test is unlikely to be met. This is going to be the case for most County Council consultee matters and *may be* the case for Town and Parish related proposals. **Seek advice from the Monitoring Officer on the proposals.**
- **Do** take the opportunity to exercise your separate speaking rights as a Ward advocate where you need to represent the views of local electors (so long as you do not have a DPI or other Declarable Interest). \*Where you intend to do this:
  - advise the Proper Officer or Chairman that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the Members area to the public area of the Committee for the duration of that item; and
  - ensure that your actions are recorded.

#### **4. Contact with Applicants, Developers and Objectors**

- **Do** refer those who approach you for planning, procedural or technical advice to Officers and/ or the Planning pages of the Council's website. As a Ward Councillor you will frequently be approached for advice on what to do, or where to obtain information and this is the best approach. If you sit on the Committee, or appear as a substitute, you should refrain from making comments on an application before it is determined in case you are accused of having made up your mind. Also section 5 "**Lobbying of Councillors**".

- **Don't** agree to any ~~formal~~ meeting with applicants, developers or groups of objectors if you can avoid it. Where you feel that a ~~formal~~ meeting would be useful to clarify issues, you only arrange that meeting through the Development and Conservation Manager if she/ he is able to organise one. If the meeting can be arranged, the Officer(s) 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, 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 Committee.
- **Do** otherwise:
  - follow the Council's rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report any significant contact with the applicant and other parties to the Development and Conservation Manager (or in their absence the Service Director – Regulatory), explaining the nature of the contact and your involvement in them (and this recorded on the planning file).

**In addition in respect of presentations by Applicants/Developers:**

- **Don't** attend a planning presentation without requesting an Officer to be present if you sit on the Committee or if you are sitting as a substitute at that Committee. You may act as a Ward advocate, however where you have acted as such, then you must not sit on, or be a substitute for that item at the Committee meeting. Ideally any presentation (excluding those at pre-application stage) should be made to the Committee as a whole as part of the determination procedure. If you are on the Committee and attend a presentation outside of that process, take care – you will not have all the information and should reserve / and make clear you will reserve your opinion on the proposals until this is considered properly by the Council.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application. This will be carried out at the Committee.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at the Committee.

**5. Lobbying of Councillors**

- **Do not commit yourself** to those lobbying you (generally or as part of the Statement of Community Involvement process) to vote a particular way at Committee, as you will be seen as it prejudicing your impartiality, and therefore your ability to participate in the Committee's determination. It is, however, possible to act as Ward advocate for a specific item if you do not sit on the Committee and do not have an interest. Where you have acted as Ward advocate, you should also not sit as a substitute for that item.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make impartial decisions that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is minimal, its acceptance is declared as soon as possible, including adding it to your register of interests where relevant.
- **Do** pass on any lobbying correspondence you receive to the Development and Conservation Manager at the earliest opportunity.
- **Do** promptly refer any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise to the Development and Conservation Manager.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

## 6. Lobbying by Councillors

- **Don't** become a member of, lead or represent, an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter. If you do you will have to follow the DPI or Declarable Interest path (see Code of Conduct and above).
- **Do** 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 you should disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- **Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them how they should vote in advance of the meeting at which the planning decision will be taken.
- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.
- **Don't** sit on the Committee if you are likely to regularly submit a number of planning applications. Councillors who are Members of Committee should never act as agents for individuals (including a company, group or body) pursuing a planning matter.

**Comment [JE1]:** As per suggestion from IF, I have found recruitment material in which CPRE describe themselves as a "lobbying group" rather than a general interest group.  
<https://reachvolunteering.org.uk/org/cpre-cheshire-branch>

## 7. Site Visits/Inspections

- A planning "site visit" is a recognised planning term within the planning system with a defined legal purpose. The purpose of a planning site visit is to observe the site and gain a better understanding of the issues. Visits made by Committee Members with Officer assistance are therefore the best approach. The Council does not regularly organise site visits and relies on report and presentations at Committee for consideration purposes. However, on larger or potentially contentious developments it may do so. ***This is not the same as a location or drive by visit by a Member.*** Once a Member becomes aware of a proposal they may be tempted to visit the site alone (i.e. a location or drive by visit). In such situations, the Member is only entitled to view the application site **from public vantage points**; they have no right to enter private property. While Members may be



invited to enter the site by the owner, **it is not good practice to do so, as it can lead to the perception of bias.** Therefore if applicable Committee Members:

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless 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.

Requests can be made [through the Planning Control Committee Chair](#) to the Development and Conservation Manager, [who in consultation with each other will determine whether or at Committee if the item is on the agenda and will be arranged if it is agreed that](#) it is reasonable (in terms of timing and nature of the proposal).

- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the Officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority, or attend the Committee and direct them to or inform the Officer present.
- **Don't** express a committed opinions or views about the proposal.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

## 8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you, [either immediately before,](#) during [or at any break of](#) the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- **Don't** put pressure on Officers to put forward a particular recommendation. (*This does not prevent you from asking questions or submitting views to the Officer, which may be incorporated into any Committee report*).
- **Do** recognise that Officers are part of a management structure and only discuss a proposal outside of any arranged meeting, with a ~~Head of Service~~ [Director/Manager](#) or those Officers who are authorised by their ~~Head of Service~~ [Director/Manager](#) to deal with the proposal at a Member level.
- **Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Council's Employee Code 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 Committee or its Members.*

## 10. Decision Making

- **Do** ensure that if you request a proposal to go before the Committee rather than be determined through Officer delegation, that **you provide clear reasons** (as per the Committee's terms of reference under 8.4.5 (c) (ii) or (iii)) **AND you should attend and speak to the item at Committee if you have made a request for this to go before Committee to present reasons/ grounds to the Committee.**
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan<sup>4</sup> unless material planning considerations indicate otherwise.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to Officer recommendation or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge at Appeal/ Inquiry or Judicial Review.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request further information. If necessary this may lead to a proposal to defer (or, if sufficient reasons to do so, a refusal).
- **Do** make clear any reasons for deferral of any proposal, as these must be recorded.
- **Do consider that, where an application is similar to a previous decision of the Planning Control Committee, that consideration is given to that decision and is referred to in your reasons.**

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<sup>4</sup> The Development Plan is defined under section 38 of the Planning and Compulsory Purchase Act 2004 as any regional strategy, development plan documents (taken as a whole) which have been adopted or approved in relation the area and any adopted neighbourhood development plans.

- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the Officer's introduction to the matter.

## 11. Planning Enforcement

**It is not always a criminal offence to carry out development without planning permission. However, is likely to constitute a contravention of planning laws and the Council (as Local Planning Authority) can enforce those laws.**

**So:**

- **Do** pass on reports from local residents of suspected planning breaches or those you believe have taken place, to the Development and Conservation Manager, as soon as possible, as **enforcement action is time critical**. These will then be investigated [in line with the Corporate Enforcement Policy](#) and Members updated when or where appropriate and enforcement matters reported regularly to the Committee.
- **Don't** discuss enforcement matters with third parties – you should stress that you cannot commit the Council to any particular course of enforcement action.
- **Don't recommend a preferred course of action to officers – what action is taken, if any, must conform to the Corporate Enforcement Policy.**

## 12. Training

- **Don't** participate in decision making at Committee unless you have attended the mandatory planning training prescribed by the Council.
- **Do** endeavour 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 therefore assist you in carrying out your role properly and effectively. All Members are invited for annual refresher training and should endeavour to attend.
- **Do** participate in any annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

## 13. In summary:

- **Firstly** Apply [the NHDC](#) Code of Conduct and then this Code.
- Declare interests and follow the participation procedures that apply to the interest you have.
- Don't involve yourself in pre-application advice or negotiations.
- Refer queries on applications and procedures to Officers.

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- Ensure that if you request a proposal to go before the Committee that your reasons are clear (as per the Committee terms of reference). **You should attend the Committee and speak to the item if you do this.** Don't do this if you have an interest.
- Avoid meeting directly with developers/ attending presentations by them without Officers being present. Avoid lobbying other Members about a proposal.
- If you decide to undertake a location/ drive by of the proposal site, only view this from public vantage points. **This is not the same as a Planning Site Visit and Committee Members should attend if organised by the Council.**
- Don't put pressure on Planning Officers to change their recommendations before a Committee.
- Come to meetings with an open mind and demonstrate that you are open-minded.
- Come to your decision only after due consideration of all of relevant information. Making decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- Don't vote or take part in the discussion on a proposal at the meeting unless you have been present to hear the entire debate, including the Officers' introduction to the matter.
- If you are proposing, (seconding or supporting) a decision contrary to an Officer's recommendation or the Development Plan you must clearly identify the planning reasons for doing so. These reasons must be given prior to the vote and be recorded. You may have to justify the resulting decision by giving evidence in the event of any challenge.
- Report potential planning breaches to the Development and Conservation Manager.
- You must attend any mandatory training. Attend other specialist training if made available.
- **If you are unsure about any of the above, seek advice.**

## Comparison between NHDC Planning Code of Good Practice and the LLG Model Code

### 1. The Introduction

#### **NHDC:**

One of the key purposes of the planning system is to regulate development and use of land for the public interest. If you are a *Member of the Planning Control Committee ('the Committee')* your role is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. *If you are any other NHDC Member, your role is to ensure that a democratic, fair and transparent process is followed through your role as Ward advocate.*

#### **Model:**

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. *Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised.*

The variance in NHDC's code specifically draws a distinction between members of the Committee and those acting as ward advocates. The Model code makes reference to the "Planning Authority" before referencing "decision takers" and could therefore be argued to be less far reaching. This distinction continues in the next paragraph;

#### **NHDC:**

**When the Code applies:** this Code applies to *all* Members at all times when involving themselves in the planning process, *whether you are a Member of the Committee or not* (this includes *pre-application discussions, briefings*, when taking part in the decision making meetings of the Council or when involved on less formal occasions, such as meetings with Officers, the public, consultative meetings *and acting as Ward advocate*). This includes not only **planning applications/ proposals**, but also **planning enforcement** or **site specific policy issues**.

#### **Model:**

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

By adding in the word "all" and also setting it out clearly that it applies to all members, the NHDC code is far more comprehensive in its application, and explains this in an unambiguous way. Removal of this explanatory wording could leave room for argument as to whether the code applies to members who are not on the Planning Control Committee.

## **2. Development Proposals and Interests**

Broadly, both codes contain the same information at point 2, although it is set out and expressed differently in the NHDC code. Although these changes give the impression that the codes are divergent in this section, in actual fact the differences are minor. The NHDC code also covers the situation around DPI's in greater detail.

## **3. Pre-determination, bias, reasonableness and fettering discretion in the Planning Process**

This section in the NHDC code has been expanded when compared to the Model code. As well as being more specific around different situations i.e. the different roles external bodies can play in applications, as well including an earlier part of the Model code that had previously been omitted (the latter purple text contained in text box 1).

The NHDC code also includes the following section which is not included in the Model code;

*Don't get involved in pre-application advice or negotiations other than providing general advice on the planning process/ or procedure. Planning Officers will deal with this, and applicants are made aware that this is not binding on the authority. Pre-application advice is available for all applications and encouraged for certain types of applications. Ward Councillors (and other Councillors as thought appropriate) will be informed if pre-application advice has been provided for Major applications. Active involvement of Committee Members in a proposal prior to determination is likely to lead to an appearance of bias and/or predetermination if the Committee becomes the decision making body.*

The added detail included in point 3 of the NHDC code is effective and provides more certainty than would otherwise be the case.

## **4. Contact with Applicants, Developers and Objectors**

These are almost identical in both the NHDC and Model code. The only real variance is as below;

### **NHDC:**

**Don't** attend a planning presentation without requesting an Officer to be present *if you sit on the Committee. Ideally any presentation should be made to the Committee as a whole as part of the determination procedure. If you are on the Committee and attend a presentation outside of that process, take care – you will not have all the information and should reserve / and make clear you will reserve your opinion on the proposals until this is considered properly by the Council.*

### **Model:**

**Don't** attend a planning presentation without requesting an officer to be present.

The added text to the above paragraph specifically restricts the information within it on to members who sit on the committee, where the model code could be read as applying to all members. Given that the NHDC code has been specific that the code applies to all members at all times, this specific restriction curtails the application to only committee members. If this was not the intention, then adoption of the more limited wording in the Model code would be advisable.

## **5. Lobbying of Councillors**

The codes are almost identical at this point, the only differences being the first paragraph, and also the model code includes a further paragraph at the end of the section:

### **NHDC:**

**Do not commit yourself** to those lobbying you (generally or as part of the Statement of Community Involvement process) to vote a particular way at Committee, as you will be seen as it prejudicing your impartiality, and therefore your ability to participate in the Committee's determination. It is, however, possible to act as Ward advocate if you do not sit on the Committee and do not have an interest.

### **Model:**

**Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

Whilst the paragraphs broadly say the same thing, again the NHDC code makes the distinction between members of the committee and those who may act as ward advocates.

The additional bullet point in the Model code, which is absent from the NHDC code, states the following;

### **Model:**

**Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

## **6. Lobbying by Councillors**

This section is pretty much identical in each code, with the NHDC code having an additional bullet point;

### **NHDC:**

**Don't** sit on the Committee if you are likely to regularly submit a number of planning applications. Councillors who are Members of Committee should never act as agents for individuals (including a company, group or body) pursuing a planning matter.

## 7. Site Visits/Inspections

The body of this section is pretty much identical in both codes, however the NHDC code starts off with an explanation of what a site visit is and gives some brief advice to councillors who might decide to visit a site on their own i.e. don't go onto private land etc. This introduction is helpful and clarifies what the section ahead is concerning.

The last bullet point in the NHDC code has omitted certain points that are in the Model code;

### **NHDC:**

**Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

### **Model:**

**Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias *unless:*

- *you feel it is essential for you to visit the site other than through attending the official site visit,*
- *you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file) and you can ensure you will comply with these good practice rules on site visits.*

The changes in the NHDC code means that members cannot enter sites which are subject to a proposal in any way other than as part of a site visit, whereas the Model code allows for more flexibility in different circumstances.

## **8. Public Speaking at Meetings,**

## **9. Officers,**

## **10. Decision Making**

Sections 8, 9 and 10 are identical in both codes.



## **11. Planning Enforcement**

Section 11 is not present in the Model code (or rather, section 11 in the Model code; “training”, is contained at section 12 of the NHDC code)

This section in the NHDC code states as follows;

### **NHDC:**

*It is not always a criminal offence to carry out development without planning permission. However, is likely to constitute a contravention of planning laws and the Council (as Local Planning Authority) can enforce those laws.*

*So:*

- *Do pass on reports from local residents of suspected planning breaches or those you believe have taken place, to the Development and Conservation Manager, as soon as possible, as enforcement action is time critical. These will then be investigated and Members updated when or where appropriate and enforcement matters reported regularly to the Committee.*
- *Don't discuss enforcement matters with third parties – you should stress that you cannot commit the Council to any particular course of enforcement action.*

## **12. Training**

As mentioned above, this section on training is contained at 11 in the Model code; however this is the only difference, with the body being identical in both.

## **13. In summary**

There is no summary in the Model code, however I think it is useful as a round up of what has gone before. The whole of the summary in the NHDC code is as follows;

### **NHDC:**

*Apply Code of Conduct and then this Code.*

- *Declare interests and follow the participation procedures that apply to the interest you have.*
- *Don't involve yourself in pre-application advice or negotiations.*
- *Refer queries on applications and procedures to Officers.*
- *Ensure that if you request a proposal to go before the Committee that your reasons are clear (as per the Committee terms of reference). You should attend the Committee and speak to the item if you do this. Don't do this if you have an interest.*
- *Avoid meeting directly with developers/ attending presentations by them without Officers being present. Avoid lobbying other Members about a proposal.*
- *If you decide to undertake a location/ drive by of the proposal site, only view this from public vantage points. This is not the same as a Planning Site Visit and Committee Members should attend if organised by the Council.*
- *Don't put pressure on Planning Officers to change their recommendations before a Committee.*
- *Come to meetings with an open mind and demonstrate that you are open-minded.*

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