



PLANNING CODE OF PRACTICE

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The main points of advice about the conduct expected of Members and Officers are emphasised in bold italics, like this sentence.

1. THE NEED FOR A CODE

1.1 Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (ie it actively invites public opinion before taking decisions) and the legal status of development plans, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision making.

1.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should be able to show that decisions have been taken in an impartial, unbiased and well-founded way.

2. SCOPE OF THE CODE

2.1 This guidance note sets out the practices which Ryedale District Council follows to ensure that its planning system is fair and impartial, and explains the conduct expected of District Council Officers and Members on planning matters.

2.2 It applies to both Councillors and Officers who are involved in operating the planning system - it is not, therefore restricted to professional town planners or to Members in Committee meetings. The successful operation of the planning system relies on mutual trust and an understanding of each other's roles. It also relies on each ensuring

that they act in a way which is not only fair and impartial but is also clearly seen to be so.

2.3 Both councillors and officers are guided by codes of conduct. The statutory local code of conduct, supplemented by guidance from the Standards Board, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. However, not all Planning Officers are members of the RTPI, and parts of the Code of Professional Conduct are incorporated into this Code. The District Council also has a Code of Conduct for Employees, by which all employees are required to abide. In addition to these Codes, the Council's Standing Orders set down rules which govern the conduct of Council business.

2.4 Whilst this Code, and the others referred to above, attempt to be as clear as possible, *if in doubt about how the guidance applies in particular circumstances seek advice.* Officers should seek advice from the Development Control Manager. Members can seek advice from the Development Control Manager or from the Council Solicitor as appropriate.

2.5 Appendix 1 also contains a list of other guidance on planning which is available from the Council.

2.6 This guidance is mainly about planning applications, but also applies to the ways in which the Council handles all applications, planning enforcement matters and also how the Council prepares a Local Plan. References to applicants and objectors should therefore generally also be taken to refer to complainants and alleged contravenors in enforcement cases, and to landowners, developers and objectors involved in Local Plan proposals. The guidance applies to planning matters on which a decision will be taken by the District Council, but not to

planning matters which are the responsibility of other Councils.

3. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

3.1 Councillors and Officers have different, but complementary, roles. Both serve the public. Councillors are responsible to the electorate, and are elected to represent all people of the District. Officers are responsible to the Council as a whole. They advise the Council and its committees, and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may be given to Officers only through a Council or Committee decision. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust, respect and an understanding of each others roles and positions. This relationship, and the trust which underpins it, must never be abused or compromised.

3.2 Therefore:

- *Individual Councillors should not give instructions to Officers on planning matters.*
- *Officers' actions will follow Council policy and Committee decisions.*
- *Political group meetings should not be used to decide how Members should vote on applications and enforcement cases and Councillors are not mandated on these matters by a political group.*

3.3 The Model Code sets out the requirements on councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests (see next section), but also appropriate relationships with other members, staff and the public, which will impact on the way in which councillors participate in the planning process. Of particular relevance to councillors serving on the planning committee or who become involved in making a planning decision (where

the Policy and Resources Committee deals with a planning application) is the requirement that a member

"must not in his official capacity, or any other circumstances, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage;" (Paragraph 5(a) of Model Code).

3.4 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. **Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a planning committee.**

3.5 Officers must always act impartially. The RTPi Code of Conduct says planners:

- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
- shall act with competence, honesty and integrity;
- shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- shall discharge their duty to their employers, clients, colleagues and others with due care and diligence;

These guidelines should apply to all Planning Officers. A requirement for staff to act impartially is likely to be a requirement of the statutory employees code. Through the Local Government and Housing Act 1989, restrictions are placed on the outside activities of senior staff, such as membership of political parties and serving on another Council.

3.6 Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the Model Code.

Members are placed under a requirement by the Model Code to:

- treat others with respect; and
- not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

3.7 The principles from the Relevant Authorities (General Principles) Order 2001 should guide the conduct of all Councillors. The general principles are attached at Appendix 7. In summary:

The actions and conduct of Councillors and Officers should be such as would seem appropriate and above suspicion to an impartial outside observer. Decisions should be taken in the interests of the District as a whole, and should not be improperly influenced by any person, company, group or Parish/Town Council. The key is to demonstrate that each Council and Councillor's decision was taken on the facts alone, without any undue outside pressure.

4. WHAT PLANNING DECISIONS ARE BASED ON

4.1 Planning decisions are based on planning considerations and cannot be based on immaterial considerations. The Town and Country Planning Act 1990, together with Government guidance and cases decided by the courts, define what matters are material to planning decisions.

4.2 *It is the responsibility of Officers in preparing reports and recommendations to Members, and in advising Committees, to identify the material planning considerations and to ensure Members are aware of those matters which are not material to planning decisions.*

4.3 Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the

development plan. Section 38(6) Planning & Compulsory Purchase Act 2004 says that planning decisions must be made in accordance with the development plan, unless material considerations indicate otherwise. For the purposes of Section 38 (3) of the Planning and Compulsory Purchase Act 2004, the development plan is:

- Regional Spatial Strategy currently comprising the Regional Spatial Strategy for Yorkshire and the Humber to 2016 (based on selective Review of RPG 12)
- The Development Plan documents in the Local Development Framework;
 - Core Strategy Preferred Options Consultation Draft expected to be published in June 2005

For the purposes of Section 119 and Schedule 8 of the Planning & Compulsory Purchase Act 2004, the transitional arrangements are that the following plans:

North Yorkshire County Structure Plan (alteration No 3 adopted)

Ryedale Local Plan (Adopted 2002) incorporating Selective Alteration No1 (Adopted 2004)

have effect for a transitional period as from 28 September 2004 and ending on whichever is the earlier of:-

- (a) the end of the period of three years;
- (b) the day when in relation to an old policy, a new policy which expressly replaces it is published, adopted or approved.

4.4 Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs) Planning Policy Statements (PPS), Regional Planning Guidance, Circulars and Ministerial announcements;
- planning briefs, Supplementary Planning Documents and other 'supplementary planning guidance' approved by the Council following public consultation;

- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

4.5 There is much case law on what are, and are not material planning matters. *Planning matters must relate to the use and development of land.* For example, the following are *not* normally planning matters and *cannot be taken into account in planning decisions*:

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;

- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

5. DUTIES AND SANCTIONS

As a Local Planning Authority for that part of the District of Ryedale which is outside the North York Moors National Park area, Ryedale District Council has a statutory duty to determine applications which are not

County matters under the Town and Country Planning Act 1990 together with applications under the Planning (Listed Buildings and Conservation Areas) Act 1990. The Planning Committee exercises the District Council's statutory Local Planning Authority functions and are the decision makers for the purpose of determining applications. Decision makers have a very special responsibility and have a number of statutory duties. There are also sanctions against the Council and Members for a failure to properly discharge the Local Planning Authority function. These duties and sanctions are summarised in Appendix 2.

6. THE DECISION MAKING PROCESS

In reaching a decision on a planning application, Members need to:-

- (i) identify the development plan policies which are relevant to the particular development proposal;
- (ii) identify any other material considerations;
- (iii) if there are other material considerations, the development plan should be taken as a starting point and the other material considerations should be weighed in reaching a decision. Considerable weight should be attached to the relevant policies of an adopted development plan. Exceptionally, paragraph 38 of Planning Policy Guidance advises that the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the character of a local community may be material. Such arguments will seldom outweigh the more general planning considerations. That means such considerations generally have less weight.

At a fundamental level, Members should go through the following three stage process when making a decision:-

Stage 1

- (i) Identify the relevant development plan policies and other relevant material considerations (if any) in respect of the application which need to be taken into account in the decision making process.
- (ii) Identify irrelevant matters which should not be taken into account in the decision making process. These include the applicant's personal qualities such as having a long term family connection with the area, his or her popularity in the community, the fact he/she is a local farmer, the fact that a son or daughter is just about to marry.

Stage 2

Attach sufficient weight to the development plan policies and other material consideration for and against refusal or approval.

Paragraph 38 of Planning Policy Guidance Note 1 (Revised) indicates that less weight is generally attached to personal circumstance. When they arise they fall to be considered not as a general rule, but as an exception to a general rule to be met in special cases.

Paragraph 52 of Planning Policy Guidance Note 1 (Revised) indicates that Members must have proper regard to Government Statements of Planning Policy which indicates the weight to be given to relevant considerations. If Members elect not to follow relevant statements of the Government's Planning Policy, they must give clear and convincing reasons.

Stage 3

Weigh the material considerations in reaching a decision.

A visual representation of this 'weighing' exercise is attached as Appendix 3 for consideration by Members.

A failure to follow the proper decision making procedure can give rise to a Judicial Review Challenge or a finding of maladministration by the Local Government Ombudsman.

- *In the decision making process, Members should not take into account irrelevant matters, allow them to outweigh important planning considerations and fail to take fully into account Government guidance on the weight to be attached to relevant considerations.*
- *Members should determine applications in accordance with the advice given to them by their professional officers unless they have good planning reasons, in the knowledge of all material considerations, to take a decision contrary to the officer's recommendation.*

7. LOBBYING OF AND BY COUNCILLORS

7.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or to a Member of the Planning Committee. As the Nolan Committee's Third Report states: 'local democracy depends on Councillors being available to people who want to speak to them. It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representative, the Councillors themselves' (paragraphs 285, 288). However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

7.2 Councillors need to take account of the general public's (and the Ombudsman's) expectation that a planning application and other applications will be processed and

determined in a transparently open and fair manner, in which Members taking 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 and evidence makes them vulnerable to an accusation of partiality. The determination of a planning application, or of a planning enforcement case, is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsman on grounds of maladministration.; or to the Standards Board that a member has breached the local code.

7.3 A Councillor who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding publicly to support a particular outcome - even campaign actively for it - it will be very difficult for that Member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented (perhaps in some respects for the first time) at Committee. Whilst in most circumstances this would not amount to a prejudicial interest in terms of the Model Code of Conduct, **the proper course of action for such a Member would be to make an open declaration and not to vote.** This can be seen, however, as a severe restriction on the Member's wish - duty even - to represent the views of the electorate. In most cases it should be possible for a Member to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.

7.4 It is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and what the National Code of Local Government Conduct calls the 'overriding duty as a Councillor ... to the whole local community'. However, the

following guidance will be appropriate in most cases.

7.5 Councillors who are lobbied on a planning matter before the Planning Committee or the Policy and Resources Committee meets to consider it:

- *may listen to what is being said;*
- *may give procedural advice (eg to write to the Planning Department, the name of the Case Officer, the deadline for comments, whether the application is to be determined by the Planning Committee or the Development Control Manager how decisions are reached through Officer recommendation/ Planning Committee/Policy and Resources Committee)*
- *should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;*
- *should take great care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;*
- *should make it clear that Councillors will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee;*
- *should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to oppose or support the application (or enforcement case or Local Plan proposal);*
- *should not negotiate detailed planning matters with applicants, agents, objectors, etc;*
- *should pass relevant correspondence to the Case Officer prior to any Committee meeting;*
- *should report instances of significant, substantial or persistent lobbying to the Development Control Manager or the Council Solicitor.*

7.6 Councillors who have openly declared their voting intention (on a planning or any

other application, enforcement case or Local Plan proposal) in advance of the relevant Committee meeting should make an open declaration and not vote because they could be considered to have fettered their discretion. In those circumstances a Member should not speak and vote as a Member of the Planning Committee but may speak as a member of the public.

In such cases the Member has been excluded not because of the code but because the Member's previous actions have fettered his/her discretion and possibly laid the Council open to the objection that the planning process had been tainted.

7.7 To avoid impressions of improper influence which lobbying by Members can create:

- *Councillors should in general avoid organising support for or opposition to a planning matter to be determined by the District Council, and should not lobby other Councillors - such actions can easily be misunderstood by parties to the application and by the general public;*
- *Councillors should not put pressure on Officers for a particular recommendation;*
- *political group meetings should not be used to decide how Members should vote on planning matters;*
- *Councillors should not act as agents or advocates for planning applications or any other applications, enforcement cases or Local Plan proposals to be determined by the District Council. Where a Councillor is involved in a particular planning matter, she/he should take care not to appear to try to influence other Members, and should declare an interest at the relevant Committee meeting.*
- *Whenever a Member is approached or lobbied on any particular application Members should consider distributing on a regular basis the Advice Note attached as Appendix 4 which makes clear the neutral stance which Members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting.*
- *If Members attend private site meetings in their ward at the request of the*

applicant they should express no opinion on the merits of the application and should normally advise the applicant that the Member may also speak to other interested parties including objectors.

- *Members should not normally undertake private site inspections in another Member's ward without prior notice to the Ward Member. Again Members should express no opinion on the merits of the application.*

8. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS

8.1 The Council encourages pre-application discussions between Planning Officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving clear information about Local Plan policies, etc before proposals are designed; and so they can improve the quality of applications and development.

8.2 However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

- *The Officer should always make it clear at the outset that the discussions will not bind a Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.*
- *Advice should be consistent and based upon the development plan and material considerations.*
- *Where the Development Control Manager is the decision-maker (for delegated matters - see section 16), he/she should normally not meet the applicant, agent or objectors to discuss a case*

without another Officer present. A written note should be made of all discussions. At least one Officer should attend such meetings; it may be helpful for more than one person to attend. A follow-up letter is advisable, at least when documentary material has been left with the Council. A note should also be taken of telephone discussions.

- *Whilst Councillors will not normally be involved in pre-application or pre-decision discussions, if a Councillor is present he/she should be accompanied by an Officer. The Councillor should be seen to be advised by the Planning Officer on development plan and other material considerations, and the Officer should take a note of the meeting.*

8.3 Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- *Officers should normally ask someone requesting advice to put the request in writing - so that it is clear on what proposal or circumstances advice is being given.*
- *Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.*
- *Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for a Local Planning Authority to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use of Development. Advice from an Officer cannot legally by pass this procedure.*
- *Officers will be unable to say what their recommendation is on a particular planning matter until all issues have been considered and the papers published for the relevant Committee.*

9. REGISTRATION OF INTERESTS

The Local Government Act 2000 and the Model Code place requirements on members on the registration and declaration of their interests and the consequences for the member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Guidance on the registration and declaration of interests will be issued by the Standards Board and advice may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

A register of members' interests will be maintained by the Council's Monitoring Officer, which will be available for public inspection. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of adoption of the statutory local code, or within 28 days of his election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

10. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE

10.1 The Model Code abandons the use in the old National Code of the terms 'pecuniary' and 'non-pecuniary' interests. Instead, it uses the terms '**personal**' and '**prejudicial**' interests. The code defines a personal interest in any matter under discussion as:

(1) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members' interests; and

(2) if a decision upon it might reasonably be regarded as affecting **to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area**, the well-being or financial position of themselves, a relative or a friend, or

- any employment or business carried on by such persons;
- any person who employs or has appointed such persons, any firm in which they are a

partner, or any company of which they are directors;

- any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.

10.2 Where a member considers he has such a personal interest in a matter, he must always declare it, but **it does not then necessarily follow that the personal interest debar the member from participation in the discussion.**

10.3 The member then needs to consider whether the personal interest is a **prejudicial** one. The code provides that a personal interest becomes a prejudicial one "*...if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest*". If a member has such an interest, he should not participate in a discussion on the matter and *must withdraw from the room* and must not seek improperly to influence a decision in the matter.

10.4 The code will include some exceptions to this. For example, if the matter under discussion relates to:

- another authority of which the Councillor is a member;
- another public authority in which the councillor has a position of general management or control;
- a body to which the councillor has been appointed or nominated as a representative of the authority.

Then, in these circumstances, the interest **may not be regarded as prejudicial**. In practice, therefore, the member would need to declare the interest, but could participate.

10.5 It can be seen that these provisions of the code are an attempt to separate out interests arising from the personal and private interests of the councillor and those arising from the councillor's wider public life. The emphasis is on a consideration of the status of the interest in each case by the councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. The Standards Board will be providing guidance on this aspect of the code. In the end, however, the decision will be for the councillor alone to take.

10.6 Translated to a councillor's involvement in planning issues, the two stage test of personal and prejudicial interests will, as now, require a councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the personal interests of the councillor, his family, friends or employer.

10.7 The exceptions made to the definition of prejudicial interests relating to membership of outside bodies mentioned above are attempts to clarify the nature of such interests and to encourage participation in such cases. It appears that too often in the past, members had been prevented from participation in discussions in such circumstances, on the basis that mere membership of another body constituted an interest that required such a prohibition, even in cases where the member was only on that body as a representative of the authority.

10.8 When considered in the context of planning matters, this approach will require the exercise of particular judgment on the part of the councillor. The use of the term 'prejudicial' to describe the interest is helpful here. If a planning matter under consideration relates to another body upon which the councillor serves, the exemption in the Model Code would suggest that the member could participate in a decision on that matter - ie membership of that body could not be considered per se a prejudicial interest, which would bar the member.

10.9 However, if a member, in advance of the decision-making meeting had taken a firm view on the planning matter, either in

meetings of the other body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account -they would have fettered their discretion. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. So the exemption in the Model Code would only operate in the planning context, if the member had scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance on appropriate conduct in relation to membership of other bodies and the effects of such membership on participation in the planning decision-making process. It is expanded in section 7 on lobbying.

10.10 There will be occasions when members of say the Policy and Resources Committee will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that member be able to vote on any planning application relating to that development? The appropriate action is not clear cut, and may depend on the particulars of the case. However, the general advice would be that a member in such circumstances may well be so committed to a particular development as the result of undertaking the responsibilities of furthering the development of the area, that he or she may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached. Indeed, the member may be seen as an advocate on behalf of the authority for the development in question. In that sense, the member becomes almost the 'internal applicant'. In such circumstances, the appropriate approach is likely to be that the member is able to argue for the development but should not vote on the relevant applications.

10.11 The Council's Code of Conduct for Members requires that a Councillor who declares a prejudicial personal interest should withdraw from the relevant Committee meeting and take no part in speaking or voting on that item.

10.12 Members who need to declare a personal interest on a case should do so at both the

Planning Committee and the Policy and Resources Committee.

10.13 Appendix 5 gives some specific examples of when it has been felt necessary to declare an interest, which may help to amplify the above general guidance.

11. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL

11.1 Members or Officers who are aware of a breach of planning or listed building control on land under their ownership or control should promptly advise the Development Control Manager or the Council Solicitor of the breach in writing.

11.2 Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Development Control Manager and the Council Solicitor and be the subject of an enforcement report to the Planning Committee.

12. PARISH OR TOWN COUNCIL MEMBERSHIP

12.1 The Council consults the relevant Parish or Town Council or Parish Meeting on every planning application. Planning Officers may, on request, attend a Parish or Town Council meeting early in the life of an application.

12.2 Difficulties can arise for Councillors who are members of a Town or Parish Council as well as the District Council. By taking part in a Parish or Town Council meeting when their comments on an application are agreed, a District Councillor will be seen to have made up her/his mind in advance of hearing all the issues at the decision-making District Council Committee. The member could be considered to have fettered his or her discretion. In those circumstances the member should not participate at the district council meeting. In such cases the member has been excluded not because of the code but because the member's previous actions had fettered his or her discretion and possibly laid the council open to the objection that the planning process

had been tainted. So, a member has to choose whether to form a view at an early stage of the process and campaign for or against the planning applications but be excluded from the final decision-making; or reserve judgment until all views have been considered and only then form a view.

'Dual' Members should therefore either:

- *not take part in the discussion of an application at the Town or Parish Council meeting at which comments are agreed; or*
- *not take part in the discussion/decision on the application at the District Council Committee;*

Furthermore:

- *although the consultation response from a Parish/Town Council is a relevant consideration, Members should not automatically defer to the Parish/Town Council view, because Parish/Town Councils do not have the advice of professional Planning Officers in reaching their decision.*

13. OFFICER REPORTS TO COMMITTEE

13.1 To ensure that Committees give due consideration to the development plan and other material considerations, all Committee decisions on planning applications, enforcement cases and Local Plan proposals will normally be taken only after the Committee has received a written Officer report. Written Officer reports will be agreed by the Development Control Manager, and/or the Area Team Leader (as the Council's Senior Chartered Town Planners), and will reflect the collective view of the Department - not the view of the individual author.

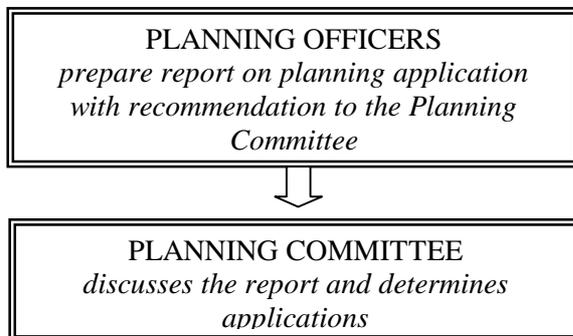
13.2 Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and Local Planning policies and their implications for the case; the site or

- related history (where relevant) and any other material considerations;
- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
- if the recommendation is contrary to the provisions of the development plan, clearly state the material considerations which justify this;
- describe the purpose and content of any planning agreement or obligation proposed in association with the planning permission.

14. COMMITTEE PROCEDURES

14.1 Decisions on planning applications are taken by the Council's Planning Committee which collectively includes 15 Members of the Council. The procedure for processing planning applications may be summarised as follows:-



14.2 Reports are available to the public five working days before the Committee on request. Paragraph 13.2 describes the content of reports. The application files, containing all comments, are also available at that stage. Late letters and other information may be put to Committee and copies of these are normally available for inspection. The public (including applicants and objectors) can attend Committee meetings and may speak under the terms of the Council's public speaking policy.

14.3 The Planning Committee may agree or disagree with the report and recommendation

(but see sections 17 and 18 below). Having considered all the relevant planning matters, the Committee may:

- grant planning permission, usually with appropriate planning conditions;
- refuse planning permission, with justified planning reason(s);
- defer the application for further consideration.

14.4 Planning enforcement decisions are normally taken by the Planning Committee. A written Officer report will normally be prepared in advance of the Committee. The report and the discussion at the Committee on some enforcement matters may not be available to the public, for example if the Council is considering a prosecution in the courts. Schedule 12A of the Local Government Act 1972 as amended sets out what can be considered in private.

14.5 Decisions on Local Plan proposals are taken by the Policy & Resources Committee, following consideration of a written Officer report.

14.6 The procedures governing the conduct of meetings are set out in the Council's Constitution. However, the general public who attend these meetings will usually not be familiar with the Council's Constitution, or this Code. It is therefore important that decisions are made on relevant grounds and that this is the impression left with the public who attend. Responsibility for this rests primarily with the Chairman of the meeting, assisted where appropriate by officers. To facilitate this:

- *a briefing for the Chairman and Vice-Chairman of the Planning Committee will be held after the Officer reports and recommendations have been published. The purposes of these briefings is to inform the Chairman and Vice-Chairman of the issues, to ensure that the rationale for the Officer recommendation is explained, and to identify any potentially problematic or controversial items;*
- *one or more Chartered Town Planners will be present at all Planning Committee*

- *meetings at which planning matters are considered;*
- *a Legal Officer will normally also be present.*

15. COMMITTEE SITE VISITS

15.1 The Planning Committee may sometimes decide to visit a site prior to determining an application. Site visits sometimes result from a request by a Ward Councillor. It is acknowledged that this is a proper part of the representational role and should normally be acceded to, so long as the Ward Councillor can justify his/her request in relation to material planning considerations. Site visits should not be employed merely to appease local interest in an application.

15.2 However, site visits cause delay and add costs for the applicant and Council, and should only be used where there are substantial benefits. Therefore:

- *A site visit is likely to be necessary only if the impact of the proposed development is difficult to understand from the plans and any supporting material, including photographs taken by Officers, or if the proposal is particularly contentious.*
- *The reasons for a site visit should be clearly stated and minuted.*
- *All Members of the Planning Committee will be invited and should make every effort to attend, so that they understand the issues when the matter is considered at the following Planning Committee meeting.*

15.3 Site visit meetings will be conducted in a formal manner:

- *The Chairman should start by explaining the purpose and conduct of the site inspection adding that any questions or comments from any individual should be made to all the Members through the Chairman.*
- *The Officer will describe the proposal and highlight the issues relevant to the site inspection and other material planning considerations.*

- *The Officer will be asked to point out relevant features which can be observed. Members may also wish to point out features which can be observed, or to ask factual questions of the Officer.*
- *The applicant and representative of the Parish/Town Council may attend the site inspection and will be invited to draw Members' attention to any salient features or to any relevant factual information.*
- *To avoid Members being spoken to individually, the Chairman should endeavour to keep the Committee together as a group.*
- *No discussion or decision-making will take place on site.*
- *No hospitality will be accepted before, on or after site visits.*
- *Members or Officers who have a pecuniary or non-pecuniary interest which means they should not participate at Committee on determining the application should not attend a site inspection.*
- *In all other cases Members should declare when appropriate a non-pecuniary interest.*

16. DECISIONS DELEGATED TO OFFICERS

16.1 The Council has agreed that decisions on certain types of application can be taken by the Development Control Manager. These are less contentious, small-scale proposals, such as house extensions, advertisements, small industrial extensions, the discharging of planning conditions and breaches of planning conditions imposed by a Committee. The full list of decisions delegated to the Development Control Manager is set out in Appendix 6. The system allows quicker decisions to be taken on straightforward matters.

17. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

17.1 Planning decisions must normally be taken in accordance with the Development Plan (see paragraph 4.3).

17.2 *If Officers are recommending granting planning permission contrary to the development plan:*

- *The decision will always be taken by a Committee, and not as a delegated decision.*
- *The Officer's report to the Committee must clearly identify the material planning considerations and how they justify overriding the Development Plan.*
- *The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with the Town and Country Planning (General Development Procedure) Order 1995 Article 8.*

17.3 If the decision would be a significant departure from the Development Plan, (as defined by Government Direction) the application will be referred - normally after the Planning Committee has agreed a recommendation - to the Secretary of State for the Environment, Transport and the Regions, to enable him/her to decide whether to 'call in' the application to be decided centrally.

18. DECISIONS CONTRARY TO OFFICER ADVICE

18.1 If the Planning Committee or the Policy and Resources Committee makes a decision contrary to the Officers' recommendation on a planning application or enforcement case, then:

- *the proposer of the motion to go against the Officers' recommendation, or the Chairman, should state the planning reasons for the proposed decision before a vote is taken; the Ombudsman has said that the reasons should be clear and convincing, and be material planning considerations (see section 4 above);*
- *the Planning or Legal Officer present at the meeting should be given the opportunity to comment upon whether the proposed reasons for the decision are planning matters and , if an approval is proposed, to recommend appropriate planning conditions;*

- *if the decision would be contrary to the Development Plan, then the Officer should comment on the extent to which the other planning considerations could be seen to override the Development Plan, and on whether the decision would be significant departure from the plan requiring reference to the Secretary of State (see section 16 above);*
- *where the Planning Committee indicates that it is not minded to accept the Officers recommendation for approval, the planning application should be deferred to the next Planning Committee meeting where so requested by the Development Control Manager. This one month deferral period enables Officers to prepare clear and convincing planning reasons for refusal;*
- *where the Development Control Manager is satisfied that the Planning Committee wishes to approve an application contrary to policy, the application will be referred with a recommendation to the Policy and Resources Committee;*
- *a detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is contrary to the Development Plan, the minute should state that and clearly set out those planning considerations which override the development plan.*

18.2 If a Committee wishes to amend or add conditions to an approval, Officers should be requested to draft the detailed wording of the conditions in line with the Committee's wishes.

19. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED

19.1 One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

19.2 The principles which can be distilled from Ombudsman cases are as follows:-

- there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:-
 - insufficient weight has been given to Officers' recommendations and Central Government guidance; and
 - there is a failure to give and record reasons for the authority's change of mind.

19.3 Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.

19.4 Therefore:

- *If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman should state what the significant change in the planning circumstances justifying approval are before a vote is taken.*
- *If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman should also state why the Inspector's decision should no longer be followed before a vote is taken.*

20. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS

20.1 Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. Proposals can take the form of either planning applications or Development Plan proposals, or may involve planning enforcement. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

20.2 For planning proposals from Officers and Councillors:

- *Serving Councillors and Officers who submit their own proposal to the authority they serve should play no part in the decision-making process for that proposal.*
- *Such proposals will be reported to Committee and not dealt with by the Development Control Manager under delegated powers.*
- *The Council's Monitoring Officer should be informed of such proposals by serving Councillors, and the Officers report to the Committee will show that the applicant is a Councillor.*
- *Councillors and Officers should never act as agents for people pursuing a planning matter with their own authority.*

20.3 For proposals submitted by close relatives and friends of Officers involved with the development control process:

- *The Officer concerned will have no involvement with the application.*
- *The Officer concerned should alert the Development Control Manager to the proposal.*

20.4 Where a planning proposal directly affects the property or personal interests of a Councillor, she/he should play no part in the decision-making process. This would apply, for example if a Councillor submitted comments, as a neighbour, on a planning application.

20.5 Similarly, an Officer should have no involvement in processing a planning proposal which directly affects her/his property or personal interests.

21. THE COUNCIL'S OWN DEVELOPMENTS

21.1 Proposals for the Council's own development have to be treated in the same way as those by private developers.

- All applications for the Council's own development will be reported to Committee and not dealt with by the Development Control Manager under delegated powers.
- All applications for the Council's own development will be the subject of a written Officer report, as with other applications.

22. THE MEDIA

22.1 The principles of this Code also apply to press contact. Councillors and Officers when commenting to the media on planning matters should:

- *have regard to the points made in the section on lobbying (Section 7);*
- *ensure that they do not give the impression that they have pre-judged the planning application;*
- *make clear that Councillors will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;*
- *for delegated applications, make clear that the Head of Planning Services will retain an open mind until such time as the full facts are available and presented for decision.*

22.2 Any Officers can provide facts about a planning matter which are in the public domain and available to the media (see guidance note on the Local Government Act 1972). However, the media should be referred to the Development Control Manager for attributable comments.

23. RECORD KEEPING AND COMPLAINTS

23.1 The Council has its own Complaints Procedure, and a separate leaflet is available. Complaints are first investigated within the Department by an Officer more senior than the Case Officer. If the complaint cannot be resolved within the Department it will be investigated separately by the Council's Customer Relations/Complaints Officer.

23.2 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. It is not possible to keep a full note of every meeting and conversation. However, the guiding rule is that every case file should contain an account of the main events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached.

- *The main source of this documentation will be Officer report to Committee and, if the Committee does not agree the recommendation, the Committee minutes.*
- *For delegated applications, a formal note of the main planning considerations is written and kept on file.*
- *These principles apply equally to enforcement and Development Plan matters.*
- *All Committee reports and delegated decision reports will be checked and agreed by the Development Control Manager and/or the Area Team Leader.*
- *A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in proportion to the significance of the event.*

23.3 Section 12 gives more details on what reports contain.

24. TRAINING

24.1 As section 4 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be given to each Councillor and Officer in the Planning Department, including new Councillors and employees.
- The Council will provide periodic training events for Councillors on planning, which all Members should attend.
- Members newly elected to the Council must attend a training event on planning within their first year on the Council. A special training event for Members will be held after each four-yearly election of all Members.
- The Council will employ a Chartered Town Planner as Development Control Manager, and will attempt to employ trained or Chartered Town Planners to operate its main planning functions.
- The Council will, as far as possible, assist Officers in carrying out training and development activities which enable them to meet the requirements of their post, and enable them to fulfil the 'continuous professional development' requirements placed on Chartered Town Planners.

25. LEARNING FROM PAST DECISIONS

25.1 The lessons to be learnt from any complaint against the Planning Service should be considered, recorded, and any necessary changes to procedures implemented. There will be an annual review by the Planning Department Managers of a selective number of planning decisions which will be appraised by visiting the sites, considering where appropriate any complaints to learn from experience.

25.2 The Council is working towards a more systematic way of learning lessons from a sample of past planning decisions and outcomes.

26. HOSPITALITY

26.1 *Councillors and Officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.*

26.2 Councillors should also be very cautious about accepting gifts and hospitality. The Model Code requires any members receiving any gift or hospitality, **in their capacity as members**, over the value of £25, to provide within 28 days of its receipt written notification of the details to the Monitoring Officer of the Council. Such details will go in a register of gifts and hospitality, which will be open to inspection by the public.

26.3 Similarly, officers, during the course of carrying out their duties, officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Councils should provide a hospitality book to record such offers whether or not accepted. This book should be reviewed regularly by the Council's Monitoring Officer. The requirement to register any such hospitality is likely to be a feature of the statutory code of conduct for employees.

26.4 The presumption should be that any gift is normally refused.

APPENDIX 1: OTHER GUIDANCE

FROM RYEDALE DISTRICT COUNCIL

Code of Conduct for Members
Code of Conduct for Employees
Council's Constitution

FROM OTHER ORGANISATIONS

'Code of Professional Conduct' The Royal Town Planning Institute, June 1997.

'Guidance for Good Practice on Members' Interests', the Commission for Local Administration in England, April 1994.

'Probity in Planning', Local Government Association, 1997.

'The Role of Elected Members in Plan Making and Development Control', RTPI, 1997.

'Planning Authorities and Racist Representations', RTPI, July 1996.

'Probity in Planning Update', Local Government Association 2002

APPENDIX 2: DUTIES AND SANCTIONS

1. DUTIES OF MEMBERS

In determining applications, the Planning Committee and Policy and Resources Committee are not bound to follow the Officer's recommendation contained in a report. The relevant Committee should form its own views as to whether permission should be granted. However, this should not be interpreted as meaning that there are no possible grounds for challenge in the Courts, by the Ombudsman or some other external agency whatever Members do for example in approving applications contrary to Officer's recommendations, National and Development Plan Policy.

Members of the Local Planning authority have the following duties:-

- (i) Members must at all times act within the law;
- (ii) The overriding duty of Members is to the whole community, not to individual applicants. For example, the avoidance of sporadic development in the open countryside is in the interests of the whole community;
- (iii) Members have a statutory duty when determining planning applications to have regard to the provisions of the development plan where material to the application and to any other material considerations (Section 70 of the Town & Country Planning Act 1990).
- (iv) Members have a statutory duty to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) Planning & Compulsory Purchase Act 2004).
- (v) Members have a statutory duty when determining planning applications "to seek the achievement of the general objectives of the structure plan for the time being in force in their area". (Paragraph 7 of Schedule 1 to the Town & Country Planning Act 1990).
- (vi) Members have a statutory duty when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses: Section 16 of the Planning (Listed Building and Conservation Area) Act 1990.
- (vii) Members have a statutory duty when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (viii) Members have a statutory duty when determining planning applications in respect of buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the special character or appearance of the area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. SANCTIONS AGAINST LOCAL PLANNING AUTHORITIES AND MEMBERS

Sanctions against Local Planning Authorities and Members are necessary because duties without sanctions would be potentially unenforceable. This part of the code briefly examines the remedies available to aggrieved persons who consider that the Council has acted unreasonably or unlawfully in making a planning decision and the implications these actions may have for the Council and Members.

The consequences of an unlawful or unreasonable planning decision are that the Council and Members would become subject to the scrutiny of the following external agencies:-

(1) THE STANDARDS BOARD FOR ENGLAND AND THE ADJUDICATION PANEL

Part III of the Local Government Act 2000 introduces the New Ethical Framework for Local Government. This is a statutory framework within which members must operate and a powerful structure to regulate compliance, although there are provisions for the Secretary of State to introduce a degree of local self-regulation by regulations.

Local Authorities including district Councils, Parish and Town Councils have experienced a significant strengthening of the standards of conduct arrangements within which elected and co-opted members must operate, backed up by a powerful external regulator to regulate compliance.

The New Ethical Framework has four elements:

- (1) Codes of Conduct;
- (2) a national regulatory organisation called the Standards Board;
- (3) the Adjudication Panel which may set up a tribunal to consider cases of misconduct by Members and;
- (4) Local Authority Standards Committees.

It is important to recognise that much of the New Ethical Framework is about the standards of conduct expected of elected and co-opted members of District Councils and Parish/Town Councils. To be more explicit the framework is concerned with the proper behaviour of politicians in public life, namely:

- (1) the way in which politicians conduct themselves in decision making;
- (2) their relationships with constituents, officials and outside interests; and
- (3) how conflicts of interest are declared and handled in the decision making environment of a Council.

(a) STANDARDS BOARD FOR ENGLAND

The system in England is policed by the National Standards Board, a newly created quango. In England, allegations of misconduct will be considered by the Board, which may instruct its Ethical Standards Officers to conduct an investigation. Ethical Standards Officers have considerable autonomy in deciding the approach they will take, with extensive statutory powers to require Councillors to:

- (a) attend before him or her in person;
- (b) furnish information and produce correspondence.

If a Councillor fails to comply with a request of an Ethical Standards Officer this is an offence with a maximum fine on conviction of £1000.

It is the Ethical Standards Officers who will decide either that:

- (a) there is no evidence of misconduct;
- (b) there is evidence but no action needs to be taken;
- (c) that the matter should be referred to the Local Authority's Monitoring Officer, or
- (d) that it should be referred to the President of the Adjudication Panel for adjudication by a Case Tribunal.

In assessing these powers, it is important to remember that they are only concerned with misconduct - not with fraud or corruption.

(b) **ADJUDICATION PANEL**

The Adjudication Panel for England is constituted separately from the Standards Board. It will establish case tribunals to consider matters referred to it by the Ethical Standards Officers. The person subject to the adjudication may appear or be represented before the case tribunal. Where that tribunal finds misconduct, it may suspend a member (up to one year, although this must not extend beyond the person's term of office), disqualify from present or future membership (up to five years) or take no disciplinary action. There is a right of appeal to the High Court.

(2) **DISTRICT AUDITOR**

The term 'surcharge' described the former powers of the auditor to recover financial losses from individuals on the basis that he or she is responsible for the authority incurring unlawful expenditure or has caused loss to the authority through misconduct. The surcharge provisions were repealed by Section 90 of the Local Government Act 2000. However, in future, the Standards Board and Adjudication Panel, rather than the auditor, will determine whether there has been misconduct and any issue would be pursued through them under the provisions of Part III of this Act.

Section 91 of the Local Government Act 2000 introduces a system of advisory notices. Advisory notices will apply to all bodies subject to audit under the Audit Commission Act 1998.

The advisory notice gives auditors time to seek the opinion of the Courts on the legality of an Authority's actions where they consider that the Authority or a committee is contemplating a decision or course of action that would result in unlawful expenditure or other financial loss. This section gives the auditor power to issue an 'advisory notice' in such circumstances, and specifies the form of the notice and how it should be served on the Authority concerned.

An Authority in receipt of a notice must first consider it. If it then decides that it wants to proceed with the action specified in the notice, this section requires the Authority to provide the auditor with written notice of their intentions. Furthermore, it prevents the Authority from proceeding with the activity for a period (of up to 21 days) specified by the auditor in the advisory notice. During this period, the auditor may then choose to seek an opinion from the Court on the legality of the proposed course of action. The Authority may then only proceed with the action if the Court decides that it is lawful or if the auditor does not seek a Court's opinion within the notice period.

Four extraordinary headings of expenditure which could arise from decisions of the Planning Committee or the Planning and Development Services Committee are:

- (a) an ombudsman finding of maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
- (b) costs of litigation and award of costs following an application for Judicial Review in the High Court;
- (c) costs of local public inquiries, including possible award of applicants' costs following use of Secretary of State's call in powers;
- (d) costs of local public inquiries together with landowner's costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.

(3) **LOCAL GOVERNMENT OMBUDSMAN**

Aggrieved individuals who consider that they have been unfairly treated by the Council may refer their complaint to the Local Ombudsman for investigation to see if they have suffered injustice caused by maladministration.

Examples of maladministration would include:-

- (a) failure to follow a Council's agreed policies, rules or procedure;
- (b) failure to have proper procedures; bias or unfair discrimination;
- (c) failure to give due weight to Officer's recommendations and National Policy coupled with a failure to give and record clear and convincing planning reasons for approving a planning application where a planning application for substantially the same development has previously been refused;
- (d) taking into account irrelevant matters, allowing them to outweigh important planning considerations and failing to take fully into account Government guidance on personal circumstances.

If, after investigation, it is found that injustice has been caused by maladministration, the Ombudsman's report will contain recommendations as to what action the Council ought to take, which may include the payment of compensation.

The powers of the Local Government Ombudsman are contained in the Local Government Act 1974.

(4) **JUDICIAL REVIEW**

If an aggrieved individual or group of individuals believe that the Council's planning decision is wrong in law, they can make application to the High Court for Judicial Review of the decision, which might result in the planning decision being quashed.

In considering an application for Judicial Review the Court has regard to the following factors:-

- (a) whether the Council determined the planning application in accordance with the Development Plan or other material considerations;
- (b) whether the Council has taken into account an irrelevant consideration;

- (c) whether the Council has failed to take into account a relevant consideration;
- (d) whether there is evidence to suggest that if the Council has taken into account all relevant considerations it could not reasonably have taken the decision it arrived at;
- (e) whether all required procedures had been followed or there had been any procedural unfairness.

If the plaintiff succeeds on an application for Judicial Review, the planning decision may be quashed. In such circumstances it would be normal for the costs of the plaintiff's action to be awarded against the Council.

(5) **THE "CALL IN" POWERS TO THE SECRETARY OF STATE**

The Secretary of State has call in powers which can be exercised where a Council appears to be making inconsistent decisions which are seriously in conflict with National and Development Plan Policy. Planning applications called in by the Secretary of State, usually require a local public inquiry to be held, a part of the costs of which may be incurred by the Local Planning Authority. This power is contained in Section 77 of the Town & Country Planning Act 1990.

(6) **THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION**

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the Local Authority.

The most recent example of this power being exercised is the Secretary of States decision to revoke a planning permission for a superstore in Alnwick. The supermarket group Safeway is demanding more than £4.6 million compensation from Alnwick District Council, which is the third smallest district council in England. The Secretary of State concluded that Alnwick District Council was grossly wrong to grant planning permission for a supermarket on the grounds inter alia that it was contrary to national planning guidance and structure and local plan policies.

**APPENDIX 3: THE DECISION MAKING PROCESS - "WEIGHING"
MATERIAL CONSIDERATIONS**

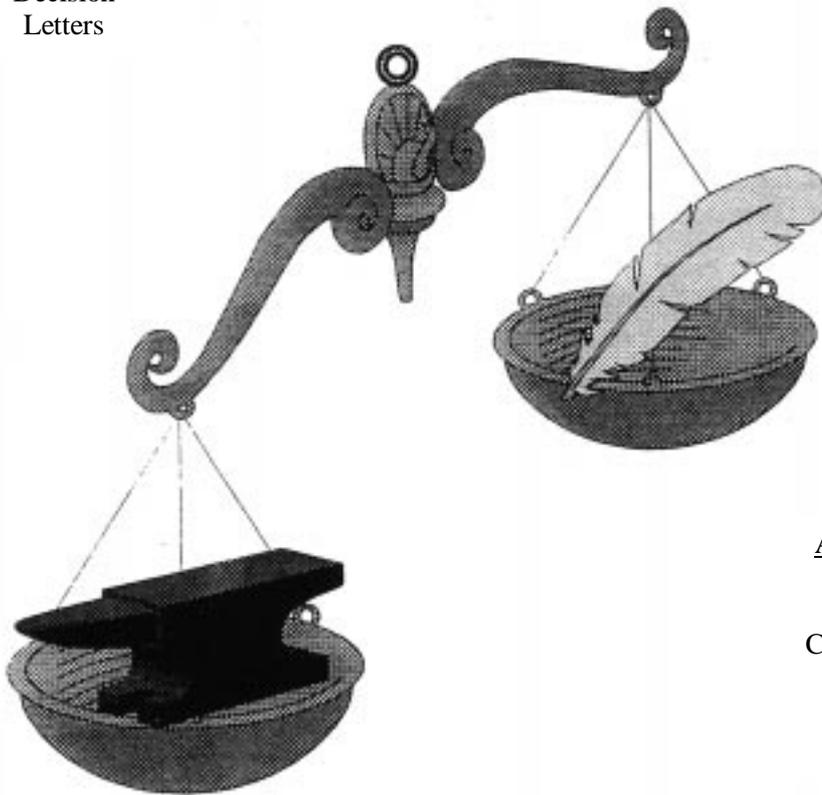
THE DETERMINATION OF PLANNING APPLICATIONS
"WEIGHING" MATERIAL CONSIDERATIONS IN REACHING A DECISION

REFUSAL

National Policy

Structure and
Local
Plan Policy

Inspectors
Decision
Letters



APPROVAL

Personal
Circumstances

"Security"

THIS VISUAL REPRESENTATION IS
FOR ILLUSTRATIVE PURPOSES ONLY



RYEDALE DISTRICT COUNCIL

*Advice from
Councillors
to people making
planning enquiries*

This note is produced to help explain how a District Councillor acts in respect of your enquiry about planning issues.

Thank you for asking me about your case. I will do all I can to see that the matter is dealt with fairly, and as quickly as possible.

One of my roles as your "Ward Representative" - ie as your elected Councillor - is to listen, and to assist you through the necessary processes. The planning process is very complex and involves consulting many different people. Their views may not coincide.

The Council has adopted planning policies after wide public consultations, and your views on the matter you have raised will be considered with those policies, as important factors.

If all the consultations and comments agree about a planning issue and it remains uncontroversial, it is likely that a planning decision will be issued by the Officers, under powers delegated by the Council.

Where there is conflict, the Officers will make recommendations to the Planning Committee.

As a District Councillor, I am able to attend the Planning Committee for the Ward I represent and speak on an item which is reported.

A small number of planning applications are referred to the Policy and Resources Committee. Unless I am a member of this Committee I do not have a vote, but I can express your views and those of others, including the Parish (or Town) Council.

If I have a professional personal interest, which must be declared, I will put you in touch with another Councillor who can assist you.

It is not possible for me to give you any commitment for support until I have heard all the facts, and if this is a contentious matter this is unlikely to be until I am given all the information in the report at the Committee meeting.

Please note that I may be approached by others with a different point of view to yours and, after I have weighed up all the facts, I may not wish to speak in favour of your point of view.

You are encouraged to put your views in writing addressed to the Council's Development Control Manager so that all Councillors will know your views in the Committee report.

Whatever my personal opinion, I respect your right to yours, and I shall endeavour to ensure that your view is clearly understood.

APPENDIX 5: EXAMPLES OF DECLARATIONS OF INTEREST

The following are examples of cases (from other authorities) considered by the Local Government Ombudsman:-

- (i) Discussion of planning applications at political group meetings.

In this case the Ombudsman commented:

“The use by the majority group of party discipline to determine planning applications was also maladministration. Members have to decide these matters on facts and material planning consideration. It is inappropriate to establish party policy on whether facts exist and on what weight should be attached to them”.

- (ii) Voting by member who was a life member and season ticket holder of a football club.

The member declared an interest but did not withdraw from the meeting. This amounted to maladministration.

APPENDIX 6: WHICH TYPES OF APPLICATION ARE DELEGATED?

DEVELOPMENT CONTROL MANAGER

The matters listed below are delegated for decision/determination to the Development Control Manager :

Part A

<u>DECISIONS</u>	<u>CONDITIONS</u>
<p>To approve (with or without conditions) applications for planning and other permissions/consents under Parts 3,8,11,12 and 13 of the Town and Country Planning Act 1990 and Parts 1, 2 and 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 . In all cases the Development Control Manager shall exercise his or her delegation where considered prudent and in all other cases refer the decision to Committee.</p>	<p>Subject to this delegation not being exercised :</p> <ul style="list-style-type: none"> (i) in relation to applications for “major development” as defined by Article 8(7) of the Town and Country Planning (General Development Procedure Order) 1995; (ii) where material planning objections in writing are received by the Development Control Manager within the consultation period from consultees, members of the public, elected Members or other organisations which : <ul style="list-style-type: none"> (a) cannot be overcome by conditions and/or plan revisions; (b) raise public interest issues; (iii) where a clear and convincing written request for referral to Committee based on material planning considerations is received by the Development Control Manager from a Council Member within 21 days from the publication of the weekly list (iv) where an application is submitted by Members of the Council, Council Officers or close relatives of Members or Officers unless the delegation is exercised by the Development Control Manager in consultation with the Chairman and/or Vice-Chairman of the Planning Committee (v) the Council’s own applications
<p>To refuse applications for planning and other permissions/consents under Parts 3,8,11,12 and 13 of the Town and Country Planning Act 1990 and Parts 1, 2 and 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 if satisfied that the proposals are contrary to the provisions of the appropriate development plan, planning policy guidance and circulars, do not comply with the relevant adopted local authority standards, or would be contrary to established planning practice and cause demonstrable harm to an interest of acknowledged importance. In all cases the</p>	<p>Subject to this delegation not being exercised:</p> <ul style="list-style-type: none"> (i) in relation to applications for “major development” as defined by Article 8 (7) of the Town and Country Planning (General Development Procedure Order) 1995; (ii) where a clear and convincing written request for referral to Committee based on material planning considerations is received by the

Section 2 - Agricultural and Forestry

Determination of applications made under the Town and Country Planning (General Permitted Development) Order 1995 (“agricultural notifications”).

Section 3 - Operations

- (a) Overhead lines up to 11 kv and buildings and engineering operations of Statutory Undertakers.
- (b) Determination of applications (Developments by Telecommunications Code System Operators) made under Part 24 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995, or any order revoking or re-enacting that Order. (For the avoidance of doubt this does not include Section 62 and 63 planning applications made under Part III of the Town and Country Planning Act 1990 for major telecommunications development, including masts to support discs and aerials, which are to be referred to the Planning Committee for determination).

Section 4 - Signs and Advertisements

- (a) All applications for express consent for advertisements and minor amendments to approved schemes.

Section 5 - Similar Schemes

- (a) To agree minor amendments to approved schemes, subject to re-consultation in appropriate circumstances.
- (b) To decline to determine repetitive applications in accordance with Section 70A of the Town & Country Planning Act 1990.

Section 6 - Trees and Notices Under the Hedgerow Regulations

- (a) Applications for consent to fell, top or lop trees subject to a Tree Preservation Order or in a Conservation Area, submit observations to the Forestry Commission on Felling Licence applications and respond to notifications of proposed works to trees within Conservation Areas.
- (b) To authorise the making of Provisional Tree Preservation Orders.

- (c) To process Notices under the Hedgerow Regulations 1997.

Section 7 - Conditions

- (a) Relaxation, deletion or variation of planning conditions.
- (b) Outstanding details in discharge of conditions imposed on full and reserved matters permissions.

Section 8 - Building Conservation

- (a) Requests to English Heritage to 'spot list' buildings considered worthy of listing. The Ward Member(s), Committee Chairman and Vice-Chairman will be informed.
- (b) To authorise the service of Building Preservation Notices.

Section 9 - Enforcement Action

- (a) To authorise the serving of Planning Contravention Notice, Breach of Condition Notices, Enforcement Notices in relation to breaches of Condition(s) and Requisition for Information Notices*.
- (b) To remove unauthorised placards and posters*.
- (c) To withdraw Enforcement Notices*.

(* in consultation with the Council Solicitor).

Section 10 - Building Control

- (a) To determine all applications for consent under the Building Act 1984.
- (b) To attend to dangerous and ruinous structures and exercise control over demolitions, and make safe all unoccupied buildings in accordance with the Building Act 1984.

Section 11 - Consultations by Adjoining Authorities

- (a) To submit observations to adjoining Local Authorities (including the North York Moors National Park and the County Council) on applications to be determined by those Authorities, in consultation with the Ward Member(s).

Section 12 - Miscellaneous Matters

- (a) To answer enquiries as to whether proposed operations constitute development requiring planning permission (“PD enquiries”).
- (b) To agree minor amendments to approved schemes, subject to any re-consultation being deemed appropriate.
- (c) To sign all decision notices issued pursuant to the exercise of any powers delegated to the Development Control Manager.
In the absence of the Development Control Manager the signing of all decision notices may be carried out by any of the following Officers (i) the Senior Planning Officer (Development Control); (ii) the Chief Executive and (iii) the Council Solicitor.
- (d) To sign all decision notices issued pursuant to the exercise of any powers by the Planning Committee or Council.
- (e) To determine whether or not a planning application is a departure application for the purposes of Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 and the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999.
- (f) To give notice, publicise and take such other action as may be necessary to ensure compliance with the Town and Country Planning (General Development Procedure) Order 1995 and the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999.
- (g) To determine in consultation with the Chairman and Vice-Chairman of the Committee and Ward Members, whether or not an Environmental Impact Assessment is required for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

- (h) In consultation with the Chairman and Vice-Chairman of the Committee and Ward Members, to give and adopt such notices and opinions and to take such other action as may be necessary to ensure compliance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- (i) To determine submissions relating to agriculture or Forestry Development made under the prior notification procedure pursuant to the Town and Country Planning General Development Order 1995 (as amended).
- (j) Power to serve notice to require in the case of an application for outline planning permission details of all or any reserved matters under Article 3(2) of the Town and Country Planning (General Development Procedure) Order 1995.
- (k) Power to serve notice directing the applicant to supply in the case of a full planning application any further information, plans and drawings necessary to enable the application to be determined or provide evidence to verify any particulars of information given pursuant to Regulation 4 of the Town and Country Planning (Applications) Regulations 1988.
- (l) To give notice, publicise consult and take such other action as may be necessary to ensure compliance with all the Orders and Regulations made pursuant to the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (m) To carry out appropriate inspections on site to ensure compliance with Building Regulations.
- (n) In consultation with the Council Solicitor, to take all relevant enforcement action under sections 35 and 36 of the Building Act 1984 and in respect of breaches of Building Regulations in force from time to time.
- (o) To deal with objections to applications for Operators Licences for the operation of heavy goods vehicles under the Goods Vehicles (Licensing of Operators) Act 1995 and any regulations made thereunder.
- (p) To serve notice of intended demolition under section 80 of the Building Act 1984.
- (q) To service notice about demolition under section 81 of the Building Act 1984.

- (r) To respond to and defend appeals against notice under section 81 and section 82 of the Building Act 1984.
- (s) To take all necessary steps for the enforcement of notice requiring works under section 99 of the Building Act 1984.
- (t) To respond to and defend any appeal against notice requiring works under section 102 of the Building Act 1984.
- (u) To advise appropriate licensing bodies in respect of applications received under various licensing legislation on matters relating to Building Regulations or other safety issues.
- (v) To undertake the duties of Proper Officer under section 78 of the Building Act 1984 (dangerous buildings - emergency measures).

**PLANNING PROTOCOL
MARCH 2003**

This Planning Protocol was adopted by Full Council on 6 March 2003 and is intended to provide a guide to the exercise by the Development Control Manager of delegated powers in relation to the Planning and Listed Building functions.

This Protocol comprises two elements showing the division of responsibility between the Planning Committee and the Development Control Manager:

- (i) a Process Map; and
- (ii) text intended to provide a plain English guide to terminology.

This Protocol should be read in conjunction with the delegation scheme for the Development Control Manager.

Planning Applications Process Map

Committee Decisions	Delegated decisions
Major Development Applications	Major Development Applications
<ul style="list-style-type: none"> All major category applications <p>e.g more than 9 dwellings, more than a hectare, commercial applications more than 1000m2</p>	<ul style="list-style-type: none"> None to be delegated <p>BVPI target 60% in 13 weeks 10-12 applications per year in Ryedale about 1% of total applications</p>
Minor/Other Applications	Minor/Other applications
<ul style="list-style-type: none"> Approvals where more than one objection with reasons raising material planning considerations is received. (1) Approval recommendations which would be contrary to policies in the Local Plan. All applications where a clear and convincing request (2) for referral to Committee based on material planning considerations is received from a Council Member (3) All applications submitted by Members of the Council; Members of staff or other close relative. The Councils own applications. Refusal recommendations where there is a clear conflict of opinion (4) with parish/town council or third parties in relation to material planning considerations. 	<ul style="list-style-type: none"> All approvals where there are no objections to the proposal All approvals where non material planning objections (5) have been received All approvals where plan revisions and or appropriate conditions are judged (6) to address third party objections. Approvals where parish/town council and/or single third party objections with reasons are received but where there are no public interest issues (7) involved. All refusals where there is no explicit support (8) for the proposal from parish/town councils and or third parties. All refusals where the decision is based on Inadequate information/quality of information (9).

Explanatory Notes to the Planning Protocol

1. Material planning consideration – Point 4.3/4 Planning Code of conduct –

Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the development plan. Section 38(6) Planning & Compulsory Purchase Act 2004 says that planning decisions must be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of:

- Regional Spatial Strategy currently comprising the Regional Spatial Strategy for Yorkshire and the Humber to 2016 (based on Selective review of RPG 12)
- The Development Plan documents in the Local Development Framework;
 - Core Strategy Preferred Options Consultation Draft expected to be published in June 2005

For the purposes of Section 119 and Schedule 8 of the Planning & Compulsory Purchase Act 2004, the transitional arrangements are that the following plans:

North Yorkshire County Structure Plan (alteration No 3 adopted)

Ryedale Local Plan (Adopted 2002) incorporating Selective Alteration No1 (Adopted 2004)

have effect for a transitional period as from 28 September 2004 and ending on whichever is the earlier of:-

- (c) the end of the period of three years;
- (d) the day when in relation to an old policy, a new policy which expressly replaces it is published, adopted or approved.

Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes, Planning Policy Statements (PPGs/PPS), Regional Planning Guidance, Circulars and Ministerial announcements;
- planning briefs, planning policy statements and other ‘supplementary planning guidance’ approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

2. Clear and convincing request – A written request in writing to the Development Control Manager within 21 days of the date of issue of the weekly application list.

3. Council Member – This point applies to any District Council Member

4. Clear conflict of opinion – i.e where parish or town councils consultees, members of the public, elected Members or other organisations recommend support or approval with reasons.

5. Non material planning objections –see Planning Code of Conduct point 4.5. The objections with reasons should be made in writing to the DC Manager.

There is much case law on what are, and are not material planning matters. ***Planning matters must relate to the use and development of land.*** For example, the following are ***not*** normally planning matters and ***cannot be taken into account in planning decisions:***

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- “trade objections” from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. Judged – the case officer in consultation with the DC Manager will judge whether the revisions or conditions address the third party objections.

7. Public interest issues – Development Control is about controlling development in the public interest i.e a householder extension at the rear of the property, not perceived outside the site is an example of an application of limited impact with little or no public interest. Whereas an application for new dwellings in a prominent site readily visible from an adjacent footpath would have considerable public interest issues.

8. Explicitly support – A “No comments”, “No Objection”, support/approval with no reasons raising **material planning considerations** are responses which are not considered to be explicit support for an application.

9. Inadequate information/quality of information – The Case officer in consultation with the DC Manager will assess the adequacy of the information. An example would be poor quality of plans or inaccurate plans.

10. Conflict with local plan – i.e the erection of a new dwelling in the countryside outside a development area or failure to satisfy all the criteria of a Policy in the Local Plan.

11. Major development is defined by Article 8 (7) of the Town and Country Planning (General Development Procedure Order) 1995 as development involving:

- (a) the provision of dwellinghouses where -
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within paragraph (a) (i);
- (b) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (c) development carried out on a site having an area of 1 hectare or more.

APPENDIX 7

THE GENERAL PRINCIPLES

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's statutory officers, and its other employee.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their Authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.