

**ST HELENS BOROUGH COUNCIL****PROTOCOL FOR COUNCILLORS AND OFFICERS  
DEALING WITH PLANNING MATTERS****1.0 THE NEED FOR GUIDANCE**

- 1.1 Planning relies on informed judgment within a firm policy context which presumes in favour of development in accordance with the Development Plan unless material considerations indicate otherwise. It is also highly contentious because its 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 (it actively invites public opinion before taking decisions) and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent 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 land holdings and the quality of their settings. It is important, therefore, that planning decisions affecting these interests should be made openly, impartially, with sound judgment and/or justifiable reasons. The process should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well-founded in any way.
- 1.3 Elected members should have regard to this guidance contained in this Protocol when involved in planning and other development matters.
- 1.4 If members are uncertain about the application of the Protocol, they should seek advice from officers, preferably in advance of the Planning Committee meeting.

**2.0 RESPONSIBILITIES FOR THE DISCHARGE OF THE  
COUNCIL'S PLANNING FUNCTION**

- 2.1 The performance of the Council's planning function is delegated to a Committee and Officers of the Council, pursuant to Section 101 of the Local Government Act 1972. An extract from the Council's Scheme of Delegation is attached to this Protocol at Appendix A, which sets out details of the applications which can be determined by Planning Officers.
- 2.2 All other decisions on planning matters are dealt with by the Planning Committee.

**3.0 DECLARATION AND REGISTRATION OF INTERESTS**

- 3.1 As with all aspects of Council business, Members should observe the guidance on declaring **disclosable pecuniary interests and personal pecuniary and non-pecuniary interests and prejudicial interests** as set out in the St Helens Borough Council Code of Conduct for Elected and Co-opted Members ('the Code').
- 3.2 The Code sets out requirements and guidance for Members on declaring **disclosable pecuniary interests, prejudicial interest and non-pecuniary personal** interests and the consequences of having such interests. This must be followed scrupulously and Members should review the Code's provisions regularly and continually reassess their own position against the requirements of the Code. Members must always bear in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct. The responsibility for this rests with each individual Member.

- 3.3 A Register of Members' Interests is maintained by the Council's Monitoring Officer. This is a living document and Members are required to notify the Monitoring Officer of any changes within 28 days of **the Member becoming aware of** the change. Members who have substantial property interests or who work in the Planning field on a professional basis e.g. Planning Advisors, which would prevent them from voting on a regular basis, might wish to ensure that they avoid sitting on the Planning Committee.

#### Disclosable Pecuniary Interests

- 3.4 The Code adopted by the Council describes in detail the term disclosable pecuniary interest. Where a matter arises at a meeting which **directly relates** to a Member's disclosable pecuniary interest, set out at Table 1 of the Code (e.g. land and property owned by the Member or their partner) then the Member must disclose the nature of the interest at the start of the meeting, or failing that as soon as the Member realises that such an interest is in play. Unless a dispensation has been granted, the Member must not vote or take any part in the debate on the matter and must not remain in the room whilst the matter is discussed. ~~The Code adopted by the Council defines in detail the term pecuniary interest. In essence, if the matter under consideration engages an interest falling within the definition of pecuniary interest set out in the Code then any Member present at the meeting should disclose the nature of the interest at the start of the meeting or failing that as soon as the Member realises that such an interest is in play. Any Member of the Committee should further play no part in the debate on the matter or any vote taken. The Member may however, stay in the committee room and subject to being granted dispensation by the Monitoring Officer, also have an opportunity to address the Committee where the public speaking rules apply for a maximum of 3 minutes, such time being additional to that permitted under the Council's public speaking rules. This right may only be exercised immediately prior to the applicant speaking and/or to the debate commencing. If the Member is in any way unsure as to whether he or she has an interest, advice should be sought from the Monitoring Officer as soon as possible, however, ultimately the decision on whether a relevant interest exists will always lie with the Member.~~

#### Personal Interests

~~Where a matter arises at a meeting which **affects** a Member's own financial interest or their well-being, or the financial interest or well-being of a relative, close associate of theirs or a registerable body set out at Table 2 to the Code (e.g. a charity of which they are a member) then the Member must disclose the personal interest. A Member with a personal interest may remain in the meeting and speak and vote as normal but it is important that they have first considered whether they have a prejudicial interest in relation to that interest (see further below). A Member of the Planning Committee will also have to consider whether or not he or she may have a non-pecuniary interest. That interest could either take the form of having any registerable non-pecuniary interest (as referenced in the Code) or it may exist where the matter being considered at the Committee is one which is otherwise closely linked to either (i) the Member (ii) the Member's Family or close friends or (iii) the Member's Employer or other business interests. In such a situation the Member must go on to consider if the link is such that it would have the effect of meaning that the person in the street may reasonably feel that any decision taken by the Member on that matter could have been unduly influenced by the link. If the Member is of the view that it is not then he or she should declare a non-pecuniary personal interest and shall be able to take a full part in the debate and vote. If the Member is of the view that it is, the Member must declare a non-pecuniary interest and not take part in the discussion and/or vote on the matter. The Member however, is permitted to stay in the room at all times and further is also permitted to address the Committee where the public speaking rules apply for a maximum of three minutes, such time being additional to that permitted under the Council's public speaking rules. This right may only be exercised immediately prior to the applicant speaking and/or the debate commencing. If the Member is in any way unsure as to whether he or she has an interest, advice should be sought from the~~

~~Monitoring Officer as soon as possible, however, ultimately the decision on whether a relevant interest exists will always lie with the Member.~~

~~Prejudicial Interests~~

- 3.5** Where a matter arises at a meeting which **affects** a Member's own financial interest or their well-being, or the financial interest or well-being of a relative or close associate of theirs or a registerable body set out at Table 2 to the Code (e.g. a charity of which they are a member) then the Member must disclose the personal interest. A Member with a personal interest may remain in the meeting and speak and vote as normal, but it is important that they have first considered whether they have a prejudicial interest in relation to that interest (see further below).

~~Prejudicial Interests~~

- 3.6** Where a matter arises at a meeting which **directly relates** to a Member's financial interest or well-being (or the financial interest or well-being of the Member's relative or close associate) or **directly relates** to the Member's registerable interests, as set out a Table 2 of the Code, then a prejudicial interest arises. A prejudicial interest also arises where the matter affects the Member's financial interest or well-being (or the financial interest or well-being of a relative or close associate) to a greater extent than the majority of inhabitants of the ward affected by the decision in circumstances where a reasonable member of the public, knowing all the facts, would believe that it would affect the Member's view of the wider public interest. A Member with a prejudicial interest must disclose the interest and may speak on the matter only if members of the public are also allowed to speak (in which case the member may address the Committee for a maximum of 3 minutes). Otherwise, the Member may not take part in any discussion or vote on the matter and must not remain in the room unless a dispensation has been granted.

#### **4.0 CONDUCT OF MEMBERS**

~~Members of the Planning Committee should remain present throughout the consideration of any particular application. If a member arrives after consideration of an application has started or leaves during the consideration of it, the member should not participate further in consideration of that application. Members who need to leave temporarily for any reason during discussion of an application may seek a short adjournment from the Chair. Members are required to concentrate only on hearing the application before them at the Committee and should ensure they are not distracted by the use of social media or other communications during the meeting.~~

~~Any Member of the Council not sitting on the Planning Committee, if permitted to speak shall be allowed to address the Committee for a period of no more than three minutes, such time being additional to that permitted under the Council's public speaking rules. Such Members shall speak immediately prior to the applicant addressing the Committee and/or the debate commencing with those supporting the application speaking last. For the avoidance of doubt such Members shall speak before any Members of the Committee exercising rights to address the Committee. Should non-Members of the Planning Committee wish to address the Committee on matters where they have a disclosable pecuniary interest or non-pecuniary Interest, this is subject to receiving a dispensation from the Monitoring Officer.~~

- 4.1** Any Member of the Council not sitting on the Planning Committee, if permitted to speak shall be allowed to address the Committee for a period of no more than three minutes, such time being additional to that permitted under the Council's public speaking rules. Such Members shall speak immediately prior to the applicant addressing the Committee and/or the debate commencing with those supporting the application speaking last. For the avoidance of doubt such Members shall speak before any Members of the Committee exercising rights to address the Committee. Should non-Members of the Planning Committee wish to address the Committee on matters where they have a disclosable

pecuniary interest this is subject to receiving a dispensation from the Monitoring Officer.

- 4.2 Members of the Planning Committee may at times find that they feel so strongly about a particular development proposed or general types of development proposals that they are not capable of going into the Committee room and considering the particular matter before them with an open mind. Whilst such a scenario would not constitute a **disclosable pecuniary interest, prejudicial interest or personal or non-pecuniary** interest, it is clear that that Member should not take part in the deliberations on the matter in order to ensure that any decision made is not susceptible to judicial challenge. In such a situation the Member should make an open declaration and be given the opportunity to address the Committee, where the public speaking rules apply, for a maximum of 3 minutes immediately prior to the applicant addressing the Committee and/or the debate commencing such time being additional to that permitted under the Council's public speaking rules. However, once the Member has so addressed the Committee the Member should play no further part in the consideration of the matter although they should be permitted to stay in the Committee room. Those Members of the Planning Committee who are also Parish Councillors, and may happen to discuss a particular Planning Application prior to it being considered at the Planning Committee, should, if they wish to, consider the matter at the Planning Committee, always make it expressly clear at the Parish Council meeting that any comments and votes cast by them at that meeting are provisional, and that they will only be in a position to form a final view at the meeting of the Planning Committee. In such a position the Member will be treated as having a declarable non-pecuniary interest at the Planning Committee. In such a circumstance that Member can still take part and vote in the consideration of the application at the Planning Committee.
- 4.3 Members of a Parish Council should not take part in the consideration or vote on any application made by the Parish Council or where the application **materially affects the well-being or financial position of** ~~=directly relates to~~ the Parish Council although the Member would be allowed to address the Committee for a period of 3 minutes prior to the application being considered provided that the public speaking rules apply.

#### 4.0 **CONDUCT OF OFFICERS**

- 4.1 Officers are also subject to a Code of Conduct which provides guidance and standards for officers. In addition, all officers dealing with planning applications are expected to comply with the provisions of the Royal Town Planning Institute's Code of Professional Conduct, whether or not they are members of the Royal Town Planning Institute.
- 4.2 Officers shall notify the Council's Head of Planning ~~Service Manager—Development & Building Control~~ in writing at the time of any planning application made by or on behalf of the Officer and his/her partner.

#### 5.0 **DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS AND COUNCIL DEVELOPMENT**

- 5.1 Applications submitted to the Council by serving and former Members and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed can proposals for the Council's own development. Although it is perfectly legitimate for such proposals to be submitted it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.
- 5.2 Serving Members who act as agents for people pursuing a planning matter within their Authority should play no part in the decision-making process for that proposal. Similarly, if Members submit their own development proposals to the Council they should take no part in the decision-making process or discuss the application with any other Member of the Council at any time.

Proposals submitted by Members or their partners should be reported to the Planning Committee as main items and should not be dealt with by Officers under delegated powers. Where such an application is submitted, the Member shall notify the Council's **Head of Planning Service Manager—Development & Building Control** in writing at the time of the application.

Proposals for **thea** Council's own development should be treated in the same way as those by private developers in accordance with **The Town and Country Planning General Regulations 1992 guidance given in Circular 19/92**. This **Circular** outlines that the same administrative process, including consultation, should be carried out in relation to the Council's own planning applications and that they should be determined against the same policy background (ie. the Development Plan and any other material planning considerations). Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted (excluding those local financial considerations which are defined in statute).

- 5.3** Any Member who has acted as a chief advocate for a proposal should be aware of the dangers of being perceived as being biased when the matter comes before the committee. In circumstances where the Member has been significantly involved in preparing or advocating the proposal that Member shall not take part in the debate or vote although he or she could make pre application submissions under the 3 minute rule. For the avoidance of doubt the preparation/advocating referenced here shall mean something more than just sitting on the proposing committee or being the relevant Portfolio Holder **responsible for regeneration**.
- 5.4** In line with the statutory guidance issued by the Secretary of State in Chapter 5 of 'Local Leadership, Local Choice' and to facilitate the full exchange of information between the Executive and the Planning Committee, the Portfolio Member responsible for the Local Plan will sit as a Member of the Planning Committee.

## **6.0 LOBBYING OF AND BY MEMBERS OF THE PLANNING COMMITTEE**

- 6.1** 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. It is essential for the proper operation of the planning system that local concerns are adequately ventilated and often the most effective and suitable way that this can be done is via Elected Members. However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Member being called into question.

~~This part of the Protocol is designed to ensure that the integrity of the decision-making process is not impaired, either in reality or in perception, through the lobbying of Members who will make decisions.~~

- 6.2** Section 25 of the Localism Act 2011 provides that:

*"A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision because:*

- (a) the decision-maker had previously done anything that directly or individually indicated what view the decision-maker took, or would or might take, in relation to a matter, and*
- (b) the matter was relevant to the decision."*

By the time a Member considers a planning application, they must have an open mind and appear to have an open mind when determining the application before them.

- 6.3** Members of the Planning Committee should, if they wish to take part in the decision-making

process, not give any commitment to vote in a particular way on a particular planning application.

- 6.4 If an ~~interested party making representations in favour or against a particular application~~~~approach is received by excessively lobbies approaches~~ a Member of the Planning Committee, the Member shall:
- (a) immediately notify in writing the Council's ~~Head of Planning Service Manager—Development & Building Control~~ of the fact that such an approach has been made, identifying the site, the nature of the approach, who it was made by and the action taken by the Member concerned;
  - (b) keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposal is considered by the Planning Committee; and
  - (c) disclose the fact and nature of such an approach at any relevant meeting of the Planning Committee.
- 6.5 Where a Member of a Planning Committee receives written representations directly in relation to a planning application or Plan Document, the Member shall pass a copy of the correspondence to the Council's ~~Head of Planning Service Manager—Development & Building Control~~ in order that those representations may be taken into account in any report to Planning Committee. The ~~Head of Planning Service Manager—Development & Building Control~~ should record receipt of the written representations in a separate register.
- 6.6 Members of the Planning Committee should, if attending public meetings, unless they intend to make the relevant declarations, do so only to hear the views of those present and should not express a final opinion on the merits of the application.
- 6.7 In discussions between Members generally and Members of the Planning Committee (at party group meetings or other informal occasions), Members should have regard to:-
- (a) the principles governing the Code;
  - (b) the principles governing the conduct of Members of the Planning Committee set out in this part of the Protocol;
  - (c) the obligations placed on Members of the Planning Committee not to give commitments in relation to any planning application.
- 6.8 Relevant Officers should be available to meet with the Chairman of the Planning Committee between the time when a report is circulated and the time of the meeting. The Chairman should forewarn Officers in cases where he/she is aware that the recommendation is likely to be challenged and the reasons why.
- 6.9 In common with Members generally, all Members of the Planning Committee should have the opportunity at any time to contact the relevant Planning Officer in relation to any planning application or Planning Document proposal, but no Member should attempt in any way to put improper pressure on the Officer in order to influence the contents of an Officer's report or the recommendations made on any matter.
- 6.10 Any political group meeting prior to the Committee meeting should not be used to decide how Members should vote. The view of the Ombudsman is that the use of political "whips" at group meetings in this way is contrary to the model Code, such behaviour amounting to maladministration.
- 7.0 **PRE-APPLICATION DISCUSSIONS**

- 7.1** Discussions between a potential applicant for planning permission and the Council prior to the submission of an application, and the taking of the decision upon the application, can be of considerable benefit to both parties and is generally encouraged as assisting the planning process. However, it would be easy for such discussions to become, or be seen to become, part of a lobbying process.
- 7.2** In order to avoid any difficulties, pre-application discussions should take place within the following guidelines:-
- (a) It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
  - (b) Advice should be consistent and based upon the Development Plan and other material considerations. In addition, all Officers taking part in such discussions should make it clear whether or not they are the decision-maker.
  - (c) A written note should be made of all meetings. The written note shall include the names of those persons who attended the meeting, a summary of the matters discussed and a list of any agreed actions.
  - (d) Care must be taken to ensure that advice is not partial, or seen to be.
  - (e) No Member sitting on the Planning Committee shall take part in any form of pre application and/or pre decision discussion with a developer or any person acting on behalf of a developer except in those circumstances as set out at 7.2(f) below.
  - (f) Any Member of the Council including those sitting on the Planning Committee shall be permitted to attend pre-application presentations by developers/ applicants provided that such presentations are both organised AND attended by Planning Officers of the Council.

## **8.0 REPORTS BY OFFICERS TO COMMITTEE MEMBERS**

- 8.1** Members are required to arrive at a decision on granting or refusing permission by using planning criteria and by excluding non-planning considerations. In determining planning applications, Members are required to make decisions in accordance with the Development Plan for its area, unless other material considerations indicate otherwise. To this end, the reports of officers to Members must be accurate and cover all relevant points. These reports:-

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- (a) should contain a section on the relevance of the Development Plan, a description of the site and any related planning history, the impact on human rights and crime and disorder and all other identified material considerations will be outlined;
- (b) should deal with the substance of any objections received and the views of people who have been consulted or notified;
- (c) should contain a technical appraisal which clearly justifies the stated recommendation;
- (d) should incorporate a recommendation for the consideration of Members;
- (e) oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur;

- (f) if the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

## **10.0 PUBLIC SPEAKING AT COMMITTEE**

- 10.1** The benefits of allowing public speaking at Committee are that public confidence is generally enhanced and direct lobbying may, as a result, be reduced. The disbenefits are that it may lengthen meetings and make them marginally more difficult to manage.
- 10.2** The Council allows public speaking at meetings of its Planning Committee in accordance with the public speaking protocol set out at Appendix B hereto.

## **10.0 DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN**

- 10.1** The law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2** In discussing and then determining a planning application, Members should confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing and supported by planning evidence. Where there is a potential for decisions to be taken which are contrary to officer recommendations, the following guidelines should be followed.
- 10.3** These guidelines will apply when a majority of Members do not consider that a planning application should be determined in accordance with the Planning Officer's recommendation. The appropriate way of proceeding will depend on the circumstances of the individual case but in general the following options will apply:

### **(a) Deferral**

If further information is required or the Committee considers that minor changes may make an application acceptable, the application may be deferred for decision at a later meeting. This may need to follow further public consultation in respect of the change, depending on its impact. However, the requirement to determine planning applications within a fixed period, and the implications of delay must be borne in mind in considering whether to defer.

### **(b) Refusing a Planning Application contrary to a recommendation to approve**

The Committee should indicate reasons for refusal with sufficient clarity to enable clear and precise reasons (with reference to relevant policies) to be provided in the decision notice. The reasons indicated should be confirmed by the Chairman and minuted in full. However, it may well be that although the Committee has indicated clear reasons, the precise wording (including relevant policies) cannot appropriately be framed in the forum of the Committee meeting. In this case the drafting of precise reasons may be delegated to the Head of Planning ~~Officer~~ (following consultation with the Chairman) rather than reported back to the Committee for final approval.

### **(c) Approving a Planning Application contrary to a recommendation to refuse**

Where the Committee wishes to grant planning permission contrary to a recommendation to refuse, the reasons should be clearly stated and minuted, and the Committee should consider whether there are any planning conditions it would wish to see imposed. The drafting of appropriate conditions, including those specified by the Committee, will normally be delegated to the ~~Head of Planning Officer~~ following consultation with the



Chairman (unless the Committee resolve otherwise) and reported to the Committee at its next meeting. It is imperative that Members allow officers to comment on proposed resolutions which are contrary to the recommendation in the report before any vote is taken.

- 10.4** Conscious of the public arena in which planning decisions are made, Members will conduct the business of the Planning Committee in a fair and sensitive manner. The debate on a planning application will be confined to the planning merits, or otherwise, of the development proposal. Members will ensure that all questions to officers are presented in a respectful manner and in an appropriate tone.
- 10.5** All applications which are not in accordance with the Development Plan must be identified as soon as possible. If it is intended to approve such an application the material considerations which led to this conclusion must be clearly identified and how they justify over-riding the Development Plan clearly demonstrated. If the Officer's report recommends approval of a departure the justification for this should be included, in full, in the Committee report. If a Member proposes a decision against the Development Plan and contrary to the Officer's recommendation, the Member must at that time indicate the reasons why they consider a departure is justified.
- 10.6** If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal), a detailed minute of the Committee's reasons should be made and a copy placed on the application file.
- 10.7** A qualified Legal Officer should always attend the meeting to ensure that procedures have been properly followed.

#### **11.0 COMMITTEE SITE VISITS**

- 11.1** Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial. A decision by the Planning Committee to carry out a site inspection should normally only take place when:-
- (a) if the impact of the proposed development is difficult to visualise from the plans and any supporting material; or
  - (b) there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing; or
  - (c) the proposal is particularly contentious.
- 11.2** When requesting a site visit, Members will give a reason, which will be formally minuted.
- 11.3** Any Member of Planning Committee may request that a site visit take place prior to the meeting at which a report is due to be considered in circumstances where they believe the provisions of 12.1(a), (b) or (c) apply. If such a request is made, Officers shall contact all Members of Planning Committee to inform them of the request and if satisfied that the request falls within the terms set out at 12.1 shall make such arrangements as are reasonably practicable to enable a site visit to take place prior to the meeting. If it is not reasonably practicable to make the necessary arrangements in advance of the meeting, this will be reported to the Committee.
- 11.4** The procedural rules set out in Appendix C must be observed at all times in the holding of all site inspections.
- 11.5** Members of the Planning Committee should seek advice from the Monitoring Officer or the

Deputy Monitoring Officer, if they are invited to attend meetings with applicants, developers or groups of objectors and are likely to take part in the decision-making process. Members can then make a decision about their attendance at the Committee having taken account of the issues relating to pre-determination.

- 11.6 Unaccompanied, unscheduled visits to application sites by members are discouraged as they cannot be an adequate substitute for formal visits with experienced officers to explain materially relevant technical issues. There may also be health and safety risks which are best managed through a formal organised visit. However, where the application site can be viewed safely from public areas and the member cannot reasonably attend the organised site visit, the member may reasonably form the view that it would be beneficial for him/her to carry out an unaccompanied visit in such circumstances.

## 12.0 **REGULAR REVIEW OF DECISIONS**

- 12.1 At least on a biennial basis, arrangements will be made for Members of the Planning Committee to visit a sample of implemented planning permissions in order to assess the quality of the decisions. This should include examples from a broad range of categories such as major and minor development, permitted departures, upheld appeals, listed building works and enforcement cases.
- 12.2 The Planning Committee should formally consider the outcome of this review and decide whether it gives rise to the need to review any existing policies or practices.

## 13.0 **COMPLAINTS AND RECORD-KEEPING**

- 13.1 Whatever procedures the Council operates, it is likely that complaints will be made. In order that any complaints can be fully investigated, record-keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.
- 13.2 The same principles of good record-keeping will be observed in relation to enforcement and Development Plan matters. Monitoring of record-keeping will be undertaken on a continuous basis by managers in the Planning Section.

## 14.0 **POLITICAL GROUP MEETINGS ORGANISED TO TAKE PLACE BEFORE THE MEETING OF THE PLANNING COMMITTEE AT WHICH THE MATTERS TO BE CONSIDERED AT THAT COMMITTEE WILL BE SPECIFICALLY DISCUSSED.**

Whilst such group pre meetings are lawful they should be properly regulated in order to reduce the risk of any successful judicial challenge being made against the subsequent Planning Committee decision. Such group pre meetings represent a good opportunity for the Chair/Portfolio holder to brief/clarify matters relating to the planning applications that have arisen in the Chair's briefing to other committee Members. However, such meetings should never be used as an opportunity to decide how Members will vote at the Planning Committee itself in order to avoid predetermination taking place. At such group pre-meetings Members should observe the following rules:-

- (i) No Member should indicate which way they will actually vote in the Planning Committee;
- (ii) No Member with a **disclosable** pecuniary **interest or** prejudicial interest should attend the group pre meeting when a relevant item is being discussed;
- (iii) No Party Whip shall be used/threatened to be used at any time in relation to any matter up for consideration by the Planning Committee;

- (iv) Should any attempt be made to apply a Party Whip, all Members aware of the attempt shall be obliged to immediately inform the Monitoring Officer;
- (v) Members must ignore/resist any attempt to whip them, and should give no consideration to the attempted whip when the relevant planning application is being considered;
- (vi) Only material considerations relevant to the planning application should be discussed at the group pre meeting when the application is being considered;
- (vii) It is acceptable to raise at the group pre meeting the Party view on the importance or otherwise of the material considerations relevant to any particular planning application, but at the end of the day it is for each Member to form his/her own judgement on the matter under consideration at the meeting of the Planning Committee;
- (viii) No mutual voting arrangements/deals should be discussed either prior to or at the meeting of the Planning Committee. Thus, it is not acceptable for one Member to agree to support another Member's view on application 'A' in return for that other Member supporting his/her view on application 'B';
- (ix) Officers should not attend the group pre meeting as a matter of course although they may be asked to attend and clarify any particular planning/legal query that arises during the group discussions; and
- (x) Only Planning Committee Members may attend such group pre meetings.

## **15.0 GIFTS AND HOSPITALITY**

- 15.1** The receipt of gifts and hospitality can cause damage to public confidence in local government and affect the integrity of the planning system. An offer of a gift, favour or hospitality should be treated with extreme caution, especially where it is from an applicant/objector to a planning application.
- 15.2** Members should avoid knowingly accepting the gifts or hospitality from persons who are currently or likely to be promoting or opposing planning applications or from others connected with such persons.
- 15.3** Members must comply with the Council's Code of Conduct for Elected & Co-Opted Members in this regard.

## **16.0 MEDIA AND SOCIAL MEDIA COMMENTS**

- 16.1** All Members should ensure that any contact with the media or comments they make about a planning application on social media should not affect the integrity of the planning system.
- 16.2** Members of the Planning Committee should ensure that they do not create the impression that they have pre-judged a planning application.
- 16.3** All Members should ensure that they do not create the impression that the Council has already pre-judged a planning application.
- 16.4** **The Code of Conduct for Elected and Co-opted Members applies to all forms of communication and interaction, and all Members shall note the published guidance on use of social media.**

## 17.0 **BREACHES**

- 17.1 A breach of this Protocol may constitute a breach of the Council's Code of Conduct for Elected & Co-Opted Members.

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Updated Protocol approved by Council on: 22.07.20

**The Constitution of St Helens Borough Council**  
**Part 3 – Responsibility of Functions**  
**B. Council Functions Delegated to Officers (Excerpt)**

**Planning**

1. To determine all applications for planning permission, listed building consent, conservation area consent, tree works consent, advertisement consent, prior notifications, lawful development certificates, variation/discharge of Section 106 agreements and all other matters submitted for the determination, formal approval or comment of the Council as Local Planning Authority under the relevant Town and Country Planning Act and associated legislation.
2. To decline to accept applications for development for which there has been an appeal dismissed within the preceding two years.
3. To decline to accept applications for development for which there has been a refusal where, in the view of the Council's ~~Development Control Manager~~ **Head of Planning**, there has been no material change in circumstances.
4. ~~To decline to determine retrospective applications where an existing enforcement notice exists.~~
5. To instruct the Council's Chief Legal Officer to issue, and where necessary withdraw, Planning Contravention Notices, Enforcement Notices, Temporary Stop Notices, Discontinuation Notices, Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act and, where appropriate, take direct action in the event of non-compliance with any notice.
6. To grant planning permission in those cases where a matter is referred to the Secretary of State for him to decide whether or not he wants to call it in, and he decides not to do so, and the Planning Committee have been minded to grant planning permission.
7. To exercise the powers of Council relating to the protection of important hedgerows under the Hedgerows Regulations 1997.
8. To exercise the powers of Council relating to the preservation of trees.
9. To determine all complaints made under Part 8 of the Anti-Social Behaviour Act 2003, for "high hedges".
10. To make the formal determination of received complaints under Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges other than where such a complaint relates to a hedge on Council- owned land or where there are considered to be wider neighbourhood issues and the matter is locally sensitive, in which case the matter be referred to the Planning Committee.

~~To determine those applications that are contrary to the Council's Development Plan/Framework, but which are recommended for approval, with the proviso that where an application is of a scale and nature that it needs to be subsequently referred onto a Government department or agency, it be referred to Committee.~~

11. To issue, and where necessary withdraw, Planning Contravention Notices, Enforcement Notices, Temporary Stop Notices and Discontinuance Notices, and Breach of Condition Notices under Section 187a of the Town and Country Planning Act (as amended).

### **Exceptions**

- a. Applications which are contrary to the provisions of the ~~Council's Local Plan/Unitary Development Plan~~ Local Development Framework and which are recommended for approval., ~~where the application is of a scale that it needs to be referred to Government.~~
- b. Applications which are contrary to the Council's policies, standards and guidance and which are recommended for approval.
- c. Applications which raise issues which are not covered by specific Council policies, standards or guidelines.
- d. Applications which are potentially controversial or likely to be of significant public interest in the opinion of the Council's ~~Chief Planning Officer~~ Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning.
- e. Applications which would have a significant impact on the environment, in the opinion of ~~the Chief Planning Officer~~ Council's Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning.
- f. ~~To approve applications~~ Applications (except for Prior Notifications for Telecommunications Development and Lawful Development Certificates) on which six or more independent material planning objections have been received which cannot be resolved by negotiation or through this imposition of conditions.
- g. Applications which have been submitted by or on behalf of an ~~Elected Councillor~~ Member of the Authority (or their spouse/partner), by or on behalf of a Chief Officer of St Helens Council (or their spouse/partner), or by or on behalf of an employee within Development Services Section of St Helens Council (or their spouse/partner).
- h. Applications submitted by, or on behalf of, the Council ~~for major developments~~, irrespective of the number of objections., ~~or minor developments if six or more independent material planning objections have been received.~~
- i. Applications which the ~~Council's Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning~~ Chief Planning Officer considers should be presented to Committee for decision.
- j. ~~Variation of Section 106 agreements and planning conditions relating to applications that were originally granted by the Planning Committee~~

### **Provisos**

- a. In the case of formal applications, they are not determined until at least 12 days have elapsed since they appeared on the weekly list.
- b. All representations are to be carefully considered and all proposals are to be dealt with in accordance with statutory requirements and having regard to the Council's relevant policies and guidelines.
- c. All matters dealt with by the exercise of delegated powers are supported by file notes referring to all material considerations, comments and objections received and clearly stating the reason for the decision.
- d. All applications determined under delegated powers are reported for the information of Members by way of regular reports on the Planning Committee agenda.
- e. In some circumstances less than six objections may be significant. In such cases the application will be referred to the Planning Committee.

Public Speaking at Planning Committee - Protocol

1. The Council's standard neighbour notification and acknowledgement letters will inform people of the right to address the Planning Committee on a Planning Application.
2. Anyone who wishes to address the Committee will inform officers in writing by noon on the day before the date of the meeting.
3. Officers will inform applicants, objectors and supporters of the date and time of the Committee at which the application is to be determined.
4. The following maximum times apply regarding length of speaking rights:
  - (a) Applicant elects to speak or more than 6 material objections, each party to be given up to 5 minutes; and
  - (b) where 25 or more material observations, each party to be given up to 10 minutes.
5. The running order of the Committee will normally commence with those applications where members of the public/applicants wish to address the Committee.
6. When their item is to be discussed, objectors and supporters will be invited to present their case and the applicants shall then be given the right to respond.
7. Normally only one objector, supporter and the applicant will be allowed to speak. The Chairman shall decide whether or not to allow more than one representative to address the meeting.
8. A dialogue will not be permitted between the applicant/agent, objector, supporters and members of the Planning Committee, **unless a member of the Planning Committee is seeking to clarify matters of fact from any individual speaking at Committee.**
9. The ~~Planning Officer~~**Head of Planning** will summarise the arguments in the light of what has been said and expand, if necessary, on the recommendation.
10. Officers from other disciplines can also contribute, depending on the issues raised.
11. **A debate between members will then take place on the basis of the officers report and representations heard, and a decision will then be moved and voted upon by the Committee.**

Site Visits by the Planning Committee - Procedural Rules

1. The purpose of a site visit is to assess the planning issues on the ground.
2. The deferred item is included in the next available agenda where applicants/objectors are allowed to address the Committee.
3. Site visits will normally take place on the afternoon prior to the evening Committee meeting:
4. Prior to the site visit the applicant/agent will normally be informed as to the time and date of the site visit.
5. Councillors should make every effort to attend the site meeting organised by officers for the Committee.
- ~~6. If attending the Committee site visit, Members should, wherever possible, travel together on the "official" coach.~~
7. Strict rules should govern the conduct of site visits:
  - Members will be accompanied by a Planning Officer and officers of other disciplines as required
  - The site will be viewed from wherever it is most advantageous to appreciate the issues; ~~therefore Members may not need to leave the coach on which the visit is conducted~~
  - ~~If it is necessary to leave the coach, an officer presentation shall take place before Members get off the coach~~
  - ~~If Members need to get off the coach to appreciate the issues better, they will remain together as the Committee~~
  - Representations made by applicants or objectors on the site visit should not be accepted or encouraged
  - No decisions should be made on the site visit, nor should the impression be created that any Member(s) hold a particular view on the development of the site or a particular planning application