

TEESDALE DISTRICT COUNCIL

**Report to: EXECUTIVE COMMITTEE
6 October 2008**

From: Lead Member for Environment, Cllr O Hedley

Ward Member: All

Subject: MEMBERS' PLANNING CODE OF GOOD PRACTICE

1.0 SUMMARY

1.1 This report set outs an updated Members' Planning Code of Good Practice for adoption by the Council.

2.0 RECOMMENDATIONS

2.1 **It is recommended that the revised Members' Planning Code of Good Practice be approved.**

3.0 LINK TO CORPORATE KEY PRIORITIES/AMBITIONS

3.1 Priority: The Council aims to act, at all times, in the interests of the community.

3.2 Ambition: To ensure that all local authority members are well trained and demonstrate the highest ethical standards.

3.3 Outcome: Decisions on planning matters well made, on a sound technical and ethical basis.

4.0 BACKGROUND

4.1 At the last meeting of the Executive Committee, and following consideration by the Planning Committee, a revised Planning Committee Site Visit Protocol was approved, to replace the procedure previously agreed in 2000 as part of a Planning Code of Good Practice. Members asked, at that meeting, that the Planning Code of Good Practice be similarly reviewed and updated.

4.2 In 2007, following the issue of the revised Members' Code of Conduct (adopted by this Council in May 2007), the Association of Council Secretaries and Solicitors (ACSeS) prepared a revised model Planning Code of Good Practice which took into account the new Code of

Conduct and the further development of good practice in the planning service. The Planning Code of Good Practice presented here is based on the revised model code.

5.0 PROPOSED PLANNING CODE OF GOOD PRACTICE

5.1 The proposed revised code is attached as an appendix. The new Planning Committee Site Visit Protocol and the Council's Scheme of Public Speaking at Planning Committee are both referred to in the code and are attached as appendices.

5.2 The following bullet points highlight a number of areas which have given some cause for concern over recent years and which are included here by way of further explanation for members:

- The Code does not just apply to members of the Planning Committee. All members are likely to become involved in planning matters from time to time through contact with local applicants and constituents and, arising therefrom, committee members and officers. (Paragraph 2.4)
- The Planning Code is complementary, and supplemental, to the Members' Code of Conduct, which is the principal set of rules governing members' conduct. (Section 3)
- The revised (2007) Members' Code of Conduct permits any member, who has both a personal and prejudicial interest in any planning application, to make representations to the committee in the same way as applicants and objectors, and subject to the same time limit, but the member must then withdraw from the meeting room (and may not sit in the public gallery) whilst the committee considers and determines the application. It goes without saying that the member, if a member of the Planning Committee, may not otherwise speak, or vote, at the committee meeting. (Paragraph 4.2)
- It is commonplace that members will be approached by applicants, developers or objectors. Whilst it is part of a member's community leadership and representative role that such approaches should be listened to and dealt with courteously, a member must keep an open mind on any planning matter and should not indicate support for, or opposition to, any proposal. To declare voting intentions prior to the committee meeting could result in the decision being legally challenged on grounds of predetermination. Any member who does so will have fettered his/her discretion and should not participate in the decision making at committee. (Section 5)
- A member of the committee, who is also a Parish Council member, should be careful, at the Parish Council meeting, not to give the impression that his/her mind is made up on any application. This does not mean that the member should not

take part in the Parish Council's discussion on the matter. (Paragraph 5.4)

- A member may sometimes feel under pressure to adopt the views which may be strongly expressed to him/her by constituents. Whilst this may sometimes be difficult to resist, it is important that members always keep an open mind on any planning application; not to do so will mean that you are likely to have fettered your discretion. (Paragraph 7.1)
- Membership of interest groups does not automatically mean that a member will have fettered his/her discretion where the group submits views on a planning application. (Paragraph 8.2)
- Members should only request a site visit where it is strictly necessary and there are site specific factors to be addressed. (Paragraph 9.3)
- Site visits are an opportunity to seek information about a proposal, not for discussion of its merits. No discussions should take place on site with any third party (applicant or objector). It is not advisable to enter a site other than as part of a formal committee site visit (Section 9)
- The Council's Public Speaking Scheme has been updated to include the right of a member, who has a personal and prejudicial interest in a proposal, to address the committee in the same manner as applies to an applicant or objector and to clarify the order of, and requirements relating to, speakers. (Paragraph 10.2)
- The Planning Scheme of Delegation permits members to request that a planning application may be referred to the Planning Committee. Such a request must be made in writing to the Development Control Manager within fourteen days of the application appearing on the weekly list of planning applications. Sound planning reasons must be submitted with the request. (Paragraph 12.1)

6.0 STATUTORY CONSIDERATIONS

6.1 Financial Implications: There are no financial implications.

6.2 Risk:

Risk	Category	Implications
Members may not follow legal requirements and best practice when dealing with planning matters.	Reputation Legal Service delivery	The Council may be found guilty of maladministration, or challenged on grounds of bias or predetermination. Customer dissatisfaction.

6.3 Equality and Diversity: The proposed Planning Code of Good Practice should ensure that stakeholders in the planning process are treated fairly.

- 6.4 Human Resources: There are no human resource implications.
- 6.5 Community Safety: There are no community safety issues.
- 6.6 Legal Issues: The legal issues are set out in the proposed code.

Background papers: As referred to in the report.

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