

Planning Member Code of Conduct

1. Purpose

The purpose of this Code is to:

- Provide Planning Committee Members with guidance on the parameters in which to act to be compliant with the Members Code of Conduct
- To minimise the risk of legal challenge of the Council's planning decisions
- Provide assurance to the public that planning decisions taken by the Council are sound.

This Code is addressed to Planning Committee Members.

This Code provides general advice and guidance. Situations may arise that are not explicitly addressed in this Code. If you have any doubts about the application of this Code to your own circumstances you should seek advice immediately from the Monitoring Officer, the Assistant Director Environment & Planning or the Planning Control Manager.

2. When the Code of Good Practice Applies

This Code applies at all times when you engage in planning matters in your role as a Councillor, including (but not exclusively):

- Formal decision-making meetings
- Consultations with officers or the public
- Planning enforcement matters
- Site visits and informal discussions

If in doubt about how this Code applies to you, seek early advice from the Monitoring Officer, Assistant Director-Environment & Planning or Planning Control Manager.

3. Relationship to the Members' Code of Conduct

Member's Code of Conduct: [184426 - KL Code of Conduct Feb 23.pdf](#)

Do:

- ✓ Follow the Member's Code of Conduct, including the seven principles of public life.
- ✓ Comply with rules on registering your interests.
- ✓ Comply with the rules on Gifts & Hospitality.
- ✓ Follow the 'Declaring an Interest and Managing any Conflicts Flowchart' [181981 - Interest Flowchart.pdf](#)

4. Conflict of Interest

Disclosable pecuniary interests are those declared, or which should be declared, on your Register of Interest and which are referred to in the Member Code of Conduct.

The Member Code of Conduct also refers to 'Extended Registrable Interests' and 'Other Interests'.

Other Interests are not necessarily declared on your Register of Interest but must nonetheless be considered as part of managing whether you have a conflict of interest.

'Extended Registrable Interests'	a) any unpaid directorships (excluding the Council's Companies) b) any body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management
'Other Interests'	Where a matter directly relates to your financial interest or wellbeing (and is not a Disclosable Pecuniary Interest) or a financial interest or wellbeing of a relative or close associate.

Do:

- ✓ Remember that interests include Disclosable Pecuniary Interest, Extended Registrable Interests and Other Interests.
- ✓ Remove yourself from participation in decision-making where you have a conflict of interest, i.e. the planning matter directly relates to either your Disclosable Pecuniary Interest, Extended Registrable Interests and Other Interests.
- ✓ Follow the 'Declaring an Interest and Managing any Conflicts Flowchart' [181981 - Interest Flowchart.pdf](#)
- ✓ Declare your interests early on.

Don't:

- ✗ Act or participate in a planning matter where you have a conflict of interest, i.e. the planning matter directly relates to either your Disclosable Pecuniary Interest, Extended Registrable Interests and Other Interests.
- ✗ Discuss your own applications with officers in your capacity as a Councillor or those of your close associates.
- ✗ Take part in decisions affecting land owned by you, a relative or a close associate.
- ✗ Use, or attempt to use, your position improperly for the personal advantage or disadvantage of yourself or anyone else.

5. Predetermination & Bias

X	Predetermination:	Where a public body fetters its discretion by deciding a matter in advance before the time and place it purports to take the decision. This includes where a Member on Planning Committee has made their decision with a closed mind or where the circumstances give rise to such a real risk of a closed mind that the decision should not, in the public interest, be upheld.
X	Presumed Bias:	Where a decision-maker has a direct financial interest (including both pecuniary and proprietary)) in the outcome of the decision.
X	Actual Bias:	Where a decision-maker is shown, in fact and for whatever reason, to have been influenced in the decision-making by prejudice, predilection or personal interest.
X	Apparent Bias:	Where the fair minded and informed observer, having considered all the facts, would conclude that there was a real possibility of bias.
✓	Predisposed	Where there is a general leaning, including political leanings, towards a particular outcome before formally considering all the relevant evidence and arguments, so long as an open mind is kept to the possibility of changing position on the outcome after consideration of all the evidence and arguments.

Do:

- ✓ Ask yourself: assuming there is no conflict of interest, is the view you hold mainly influenced by what is in the public interest or a personal interest? If it's the former you are most likely predisposed, if it's the latter you are most likely biased.
- ✓ Remember that the decisions you take are to be taken in convened Planning Committee meetings
- ✓ Keep an open mind – listen to all of the debate, hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides decision before reaching a final decision
- ✓ Remember that decisions must be based on material planning considerations.
- ✓ Recognise that predisposition (having an initial view) is acceptable, but predetermination (having a fixed view before all evidence is considered) is not.
- ✓ Understand that you are entitled to express views on planning matters. Prior observations, apparent favouring or objections in respect of a particular outcome will not on their own amount to predetermination so long as you keep as open mind.
- ✓ Ensure transparency— avoid even the perception of bias.
- ✓ Choose whether you wish to speak as the Ward Member under Standing Orders OR act as a Member of the Planning Committee – you cannot do both.
- ✓ Carefully consider whether you should join special interest groups if you wish to preserve

your ability to participate in Planning Committee decisions related to their causes

Don't:

- ✗ Publicly commit to a decision before considering all evidence.
- ✗ Take part in political discussions that seek to pre-agree a voting position.
- ✗ Take part in the decision-making at the Borough Council if you've been part of a decision on the same matter in another capacity, for example at a special interest group, a Parish Council or the County Council or equally where you wish to reserve your position to be part of the decision making process in a different capacity, i.e. choose the hat you wish to wear and keep the same hat on throughout
- ✗ Participate where the Council is the applicant or landowner and you have been a chief advocate for the development coming forwards as part of another role in the Council, for example a Cabinet Member
- ✗ Participate where you are a member, director, trustee etc of the applicant or in relation to an application that your other organisation has been a chief advocate for.
- ✗ Participate where you have a close connection to the applicant. This could be professional or personal and includes both cordial close connections and hostile connections.

5. Lobbying

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Member or to a Member of the Planning Committee.

Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, and so care and common sense must be exercised by all parties involved.

5.1 Lobbying of Councillors

Do:

- ✓ Engage with lobbyists if you wish to do so but explain that you will be keeping an open mind so as not to prejudice your ability to participate in the decision-making.
- ✓ Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- ✓ Ensure fair engagement—avoid the perception of closed minded favoritism.
- ✓ Copy or pass on any lobbying correspondence you receive to the Planning Control Manager at the earliest opportunity.
- ✓ Promptly refer to the Planning Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- ✓ Report excessive lobbying efforts or improper approaches to the Monitoring Officer.
- ✓ If you elect to speak on behalf of a lobby group, applicant or objector then withdraw from the meeting once public speaking opportunities have been completed to counter any suggestion that Members of the Committee may have been influenced by your continuing

presence.

✓ Carefully consider whether you should join special interest groups if you wish to preserve your ability to participate in Planning Committee decisions related to their causes

✓ Remember that, unless you have a disclosable pecuniary interest or overriding other personal conflict of interest or bias, you will be operating within this Code by:

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

Don't:

✗ Accept gifts, hospitality, or offers of advantage from lobbyists where a reasonable suspicion of influence to show them favour could arise.

✗ Express views in a way that prejudices an application.

✗ Allow yourself to be put in a position where your integrity could be compromised – for example being invited to speak at a developer's presentation. If in doubt – speak to the Monitoring Officer Assistant Director for Planning & Environment or the Planning Control Manager.

5.2 Lobbying by Councillors

Do:

✓ Ensure that any public engagement or social media use does not indicate a closed mind. Be aware of the power of social media posts or re-posting which can give the impression that you will vote in a certain way

✓ Disclose any affiliations with groups that have made representations on an application or proposal, or that promote special interest campaigns, such as the RSPB.

Don't:

✗ Attempt to persuade fellow Members to vote a certain way.

✗ Allow political group discussions to dictate planning votes.

✗ Take part in political discussions that seek to pre-agree a voting position.

✗ Participate as a Planning Committee Member on an application in relation to which you have actively lobbied or campaigned for or against – or a group on which you sit has actively lobbied for or against. This is not intended to capture having views or opinions about a development but where your course of conduct shows that you are a chief advocate for or against the development.

6. Engagement with Applicants, Developers & the Public

Do:

- ✓ Direct applicants and other parties to officers for procedural or technical advice.
- ✓ Remember that your engagement with any parties will likely be disclosed by them at some stage within the application process
- ✓ If you intend to meet with an applicant and participate in the decision-making process, ask the Planning Control Manager to organise the meeting so that an officer attends to record the meeting and disclose details of the meeting when it is considered by the Planning Committee.
- ✓ Consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- ✓ Report to the Planning Control Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them so that this is recorded on the planning file.
- ✓ Do be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a Committee Meeting.

Don't:

- ✗ Arrange private meetings with developers or objectors when there is a live application being processed if you intend to take part in the decision determining the application.
- ✗ Attend developer-led presentations without an officer present.

7. Site Visits

Formal site visits are part of the decision-making process and therefore need to be regulated to ensure the soundness of the decision.

Site visits are for observing the site and gaining a better understanding of the issues. They should not be used as a lobbying opportunity by objectors or supporters. This will be made clear to any members of the public who are there.

Once you become aware of a proposal you may be tempted to visit the site alone. In such a situation, you are only entitled to view the site from public vantage points and you have no individual rights to enter private property.

Do:

- ✓ Treat site visits as fact-finding opportunities to seek information and to observe the site.
- ✓ Ensure all observations are reported back to the Committee – any information acquired by one Member must be shared with the whole Committee for sound decision making.
- ✓ Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

Don't:

- X** Engage with applicants, objectors, or the public during site visits.
- X** Express personal opinions or views about the merits of the application at the site visit; save them for deliberations back at the convened Planning Committee
- X** Participate in the Planning Committee decision on an application if you missed the site visit.
- X** Don't enter the site outside the formal site visit process, even with the applicant's invitation, without an officer present as this can lead to the perception of bias. This will also enable a record to be kept for the benefit of all Planning Committee Members.

8. Public Speaking at Meetings

Do:

- ✓ Do ensure that you comply with the Council's procedures in respect of public speaking.

Don't:

- X** Allow members of the public to communicate with you during the Committee's proceedings (orally, in writing, including through the passing of messages/notes, or by social media) other than through the scheme for public speaking or through the Chair.
- X** Participate in social media or exchanges by texting during the Committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

9. Officers & Decision-Making

9.1 Working with Officers

Do:

- ✓ Recognise that officers act impartially and should not be pressured into recommendations.
- ✓ Respect the Member/Officer Protocol and officers' professional independence.
- ✓ Recognise that officers are part of a management structure and only discuss a proposal with the officer identified for this purpose.
- ✓ Recognise and respect that officers must act in accordance with the Officer Code of Conduct and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence.

Don't:

X Seek to influence officers to alter reports or recommendations for personal or political reasons.

X Put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views which may be incorporated into any Committee report).

X Do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council in relation to a planning matter.

9.2 Decision-Making

Do:

✓ Follow planning law and policies, making decisions based on material considerations.

✓ Give clear reasons for your decision based on material planning considerations, particularly if they differ from officer recommendations.

✓ Make decisions in accordance with Development Plans unless material considerations support a different decision. Be ready to articulate those reasons at the Planning Committee meeting.

✓ Provide your reasons for inclusion in the report to the Committee where you request a proposal to go before the Committee rather than be determined through officer delegation (call-in).

✓ Come to meetings with an open mind and demonstrate that you are open-minded.

✓ Come to your decision after due consideration of all of the information and deliberations at the Planning Committee meeting. If you feel there is insufficient time to digest new information or that information is missing, request that further information or take advice from the Planning Control Manager on proposing to defer.

Don't:

X Vote unless present for the whole item.

X Introduce new information after the issue of Committee agenda papers without having previously raised the information with the Planning Control Manager.

10. Training Requirement

Do:

✓ Attend mandatory training before participating in decision-making.

✓ Continue ongoing planning training to stay informed of policy and legal changes.

Don't:

X Take part in decisions if you haven't completed the mandatory training.

