

THE CONSTITUTION - SECTION 19 PLANNING CODE OF CONDUCT

1. Introduction

- 1.1 This Code of Practice is intended to guide the procedures by which Councillors ('Members') and Officers of the Council deal with planning matters and to set standards of probity and conduct which the people of Wrexham can expect of them.
- 1.2 The town and country planning system involves the Council taking decisions about the development and use of land in the public interest. Planning law requires that all planning applications be determined in accordance with the adopted Wrexham development plan unless material planning considerations indicate otherwise.
- 1.3 As Planning affects peoples' lives and private interests it can be very contentious. It is therefore important that the people of Wrexham understand the system and have confidence in its integrity and transparency, and that Members and Officers avoid impropriety or even the suspicion of impropriety. This approach is endorsed by the Committee on Standards in Public Life (the Nolan Committee), District Audit and the Local Government Association.
- 1.4 Members and Officers must not only ensure that their conduct accords with the Council's Codes of Conduct for Members and Officers (which cover such matters as declarations of interests, gifts and hospitality), but, when dealing with planning matters, also act in accordance with this Planning Code of Practice.
- 1.5 A breach of this code, while not usually amounting to a breach of criminal law, may adversely affect the standing of the Council. It could result in a decision being judicially reviewed or in a complaint of maladministration or an allegation of a breach of the Code of Conduct being made to the Local Government Ombudsman.
- 1.6 If Members or Officers are in doubt about the application of this Code they should seek advice from the Council's Monitoring Officer.

2. General Roles, Responsibilities and Conduct

- 2.1 The elected Councillors ('Members') and Officers have different, but complementary roles in the planning process. Members of the Planning Committee have different roles to other Councillors.

Members of the Planning Committee

- 2.2 Councillors who are Members of the Planning Committee determine the more significant and contentious planning applications received by the Council and make recommendations on the adoption of planning policy, such as the Development Plan. In doing so these Members perform a quasi-judicial role and are required to consider all planning proposals against the wider public interest.
- 2.3 The full Council can, in exceptional circumstances, carry out the functions of the Planning Committee. Other applications are delegated to the Chief Officer Planning & Regulatory to decide, as described in Paragraph 2.10 below.

2.4 Planning Committee Members shall:

1. act fairly and openly and avoid any actions which would give rise to an impression of bias
2. avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
3. approach each planning application/issue with an open mind, avoiding pre-conceived ideas
4. not organise support or opposition to a planning application
5. not publicly* express an opinion in advance of deciding an application which may be taken to indicate that they have made up their minds without hearing all the evidence and arguments which will be presented at the Planning Committee.

If a Member of the Planning Committee publicly* supports a particular outcome or expresses a final view on an application prior to the meeting of the Committee it will be very difficult for that Member to argue convincingly, when the Committee comes to take a decision, that he or she has carefully weighed the arguments. The proper course of action for such a Member would be to make an open declaration, not speak and not vote. Failure to do so could place the Council in danger of judicial review or complaint to the Local Government Ombudsman.

* 'Publicly', in this context means any situation where the view expressed might reasonably be expected to gain wider public circulation including a statement to the press, in a letter submitted by the Member to the Planning & Regulatory Department, or at a meeting of a Community/Town Council (or one of its Committees).

6. carefully weigh up all relevant planning issues before making a decision
7. make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality. In this respect, while Committee Members have a special duty to their Ward constituents, including those who did not vote for them, their over-riding duty is to the whole community.
8. not decide how to vote on applications on the basis of a political 'whip', but on the planning merits of each case. (The view of the Ombudsman is that subjecting a planning decision to the discipline of the political whip could amount to maladministration)
9. ensure that the reasons for their decisions are clearly stated.

Members of the Planning Committee who are also Members of Community/Town Councils

- 2.5 Membership of a Community/Town Council provides an opportunity to listen to local views and does not of itself give rise to a conflict of interest for a Planning Committee Member provided he/she maintains an open mind until all the evidence & arguments have been presented at the Planning Committee.
- 2.6 If the Member is present at a meeting of the Community/Town Council (or one of its Committees) when a planning application/matter is under consideration, he/she can

enter into discussion and ask questions, but should not express a view in favour or against the proposal and should not vote.

- 2.7 If a Planning Committee Member expresses a firm view in support or against an application at a meeting of the Community/Town Council (or one of its Committees), he/she should take no part in the subsequent determination of that application at the Planning Committee.

Non-Committee Members of the Council

- 2.8 Non-Planning Committee Members represent their Wards and the County Borough as a whole and may exercise their right to attend the Planning Committee and Committee site inspections to speak on any planning matter (subject to declarations of interest), but may not vote. Such Members do not act in the quasi-judicial role performed by Committee Members, but shall: -

1. act fairly and openly and avoid any actions which would give rise to an impression of bias or undue influence
2. avoid inappropriate social contact with applicants and their agents, objectors and other interested parties

- 2.9 Such Members may express support for a particular opinion in advance of the matter being considered by the Committee (or by the Chief Officer Planning & Regulatory under delegated powers), but should respect the fact that Planning Committee Members cannot do the same.

All Members

- 2.10 Members shall not pressure Officers to make particular recommendations in reports.

Officers

- 2.11 The Chief Officer Planning & Regulatory makes decisions on a proportion of planning applications under delegated powers and makes recommendations on more significant and contentious applications and other planning matters for decision by the Planning Committee and the Council. In considering applications and in advising Members and the public on planning policy, the determination of planning applications, enforcement and other planning matters, Planning Officers shall: -

1. act fairly and openly and avoid any actions which would give rise to an impression of bias
2. avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
3. approach each planning application/issue with an open mind, avoiding pre-conceived ideas
4. carefully weigh up all relevant planning issues
5. make decisions purely on planning grounds having regard to the development plan and other material considerations
6. give professional, objective and consistent planning advice
7. provide a comprehensive and accurate analysis of the planning issues
8. give a clear recommendation
9. carry out the decisions of the Committee

2.12 The Council's Legal Officers advise Members on legal and procedural matters. In doing so, they must: -

1. act fairly and openly and avoid any actions which would give rise to an impression of bias
2. avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
3. give professional, objective and consistent advice
4. carry out the decisions of the Committee so far as they relate to the completion of any legal agreement, institution/defence of proceedings etc.

3. Pre-Application/Decision and Enforcement Discussions

3.1 Discussion and negotiation are essential in the planning process as they can bring about improvements that can make an application acceptable or otherwise remedy problems.

3.2 Such discussions will normally take place at officer level and Members shall, wherever possible, refer requests for such advice to the Officers. If Members become involved in such discussions they should make clear that their views are personal and provisional and they may wish to make a record of the discussion.

3.3 All Officers taking part in such discussions shall:

1. make clear whether or not they are the decision maker for the purposes of the application/issue under discussion
2. make clear that only personal and provisional views can be expressed which will not bind the Council to reach a particular decision when determining an application
3. express views in the context of the development plan and other material planning considerations
4. be consistent in interpreting planning policies
5. advise applicants and neighbours/objectors on procedural matters

3.4 Occasionally local people or Community/Town Councils will arrange public meetings to discuss a current application and may invite the applicants, Members and Officers to attend. Given the need to avoid pre-determination, Members of the Committee and Officers who attend such meetings shall use them for fact-finding; not express an opinion for or against the proposal and shall otherwise act in accordance with Paragraphs 2.2 to 2.6 and 3.3 above.

4. Lobbying of Members of the Planning Committee

4.1 It is a legitimate part of the planning process for applicants, neighbours, non-Committee Members and other interested parties to approach Members of the Planning Committee. These discussions can help Members to understand the issues and concerns. As stated in the Nolan Committee Third Report: "it is essential for the proper operation of the Planning system that local concerns are adequately ventilated"

4.2 In responding to approaches of this kind, Committee Members shall follow the 9 principles outlined in Paragraph 2.3 above and may wish to make a record of the discussion, but may also: -

1. Explain the potentially conflicting position they are in if they express an opinion on a proposal before consideration at the Committee/by the Chief Officer Planning & Regulatory
2. Explain the procedures by which representations can be made; the discretionary system of allowing the public to speak at the Committee, should the application come to the Committee for decision, and that a decision will be taken only when all relevant planning considerations have been taken into account
3. Explain the kinds of planning issues that the Council can take into account
4. Report issues raised to the Officers or direct the public to the Officers so that their views can be considered
5. Advise the public to contact non-Committee Members who may be able to represent local views with less restraint

5. Planning Applications submitted by Members, Community/Town Councils and Officers

- 5.1 Planning Applications submitted by or on behalf of Members or Officers employed in the Planning & Regulatory Department or their close relatives* where known, shall be decided by the Planning Committee and not by the Chief Officer Planning & Regulatory under delegated powers. This will also apply where the Member or Officer is acting as an agent for another party. (*'Close relative' is defined as spouse, partner, parent, child or sibling).
- 5.2 The affected Member shall declare an interest and take no part in the decision.
- 5.3 The affected officer shall take no part in the decision.
- 5.4 Where a Community/Town Council submits a planning application, the County Borough Council Members who are also Members of that Community/Town Council should disclose their interest and not vote on that application should it come to Committee for decision.

6 Officers' Reports to the Planning Committee

- 6.1 All Planning matters considered by the Planning Committee will be the subject of full written reports by the Chief Officer Planning & Regulatory (or, in the case of legal matters, the Chief Officer Governance & Customer) incorporating his/her recommendations. Such reports shall be comprehensive, but succinct in setting out the key planning (or legal) issues to be considered (in terms of the provisions of the development plan and other material planning considerations), the substance of any representations received and any relevant planning history.

7 Public Speaking at the Planning Committee

Eligibility to Speak

- 7.1 The planning application concerned must be on the agenda of the Planning Committee meeting in question. Public speaking is **not** permitted at
 - Committee meetings if the application has been discussed at a previous meeting, but deferred
 - Committee site inspections, unless asked by the Chair to clarify factual matters

- Committee meetings convened to decide applications following site inspections

- 7.2 Both applicants (or their agents) and objectors (or their agents) can speak and there are no other qualifying criteria other than compliance with the Council's procedure attached as Appendix 1.
- 7.3 Normally only one person can speak for and one person against an application. Very exceptionally **the Chair** of the Committee may exercise his/her discretion to allow one additional speaker per 'side'. This discretion will usually only be exercised for major applications where there are significant differences of view within one 'side' (e.g. two people speaking against an application for a large supermarket where one represents the views of retailers and the other the views of nearby residents). In such cases the 'other side' will be allowed 2 speakers or twice the normal time, if they wish to use it.
- 7.4 Anyone requesting to speak must allow the Council to give their name and contact number to other people (of the same view) wishing to speak so that they can agree on a spokesperson, the issues to raise etc. If they cannot agree, the first person who notified the Council of his/her intention to speak will normally be chosen to speak.
- 7.5 Requests to speak must be made to the **Administration Manager** in the Planning & Regulatory Department before the deadline referred to in the notification letters sent to applicants and neighbours and published on the web-site (presently 4.30 p.m. on the Friday before the Committee).

Time Allowed to Speak

- 7.6 The spokesperson will be allowed **up to 3 minutes** to address the Committee.

Visual Aids

- 7.7 The spokesperson may not circulate or display written material in the Committee meeting. Any written representations should have been submitted to the Council during the statutory publicity period and will be summarised in the Officer's report.

Procedure

- 7.8 The procedure for public speaking at Committee is described in **Appendix 1**.

8 Planning Committee Site Inspections

Purpose of Committee Site Inspections

- 8.1 Committee site inspections are fact-finding exercises which allow the Planning Committee to make a more informed decision than would otherwise be possible from reading the officer's report and considering the views expressed at the Committee meeting by interested parties.

Requests for Inspections

- 8.2 Requests by Members for site inspections shall be made to the Planning Committee with reasons and the issues they would like the Committee to inspect while on site.

Criteria for Agreeing to Hold Site Inspections

8.3 Site visits involve delay in determining the applications concerned and additional cost. While the decision whether to undertake an inspection is a matter for the Planning Committee, Members shall ensure that such visits are only held where the Committee cannot make an informed decision without seeing the site for themselves and the inspection would have substantial benefit. Examples where a site visit would **not** normally be appropriate include where:

1. purely policy matters or issues of principle are at issue
2. the Member simply disagrees with the conclusion reached in the report

Attendance

- 8.4 Members of the Planning Committee will carry out the inspections, but non-Committee Members may also attend and address the meeting on issues of fact.
- 8.5 The applicant has a right of attendance at the site, but not to join in the meeting, except to answer questions from the Chair of the Committee on issues of fact.
- 8.6 The public does not have a right of attendance at the site, other than from public vantage points, and cannot address the meeting, except to answer questions from the Chair of the Committee on issues of fact.
- 8.7 Local Members and the public can attend the Planning Committee meeting that follows the site inspections.

Conduct

- 8.8 The inspections will be chaired by the Chair of the Planning Committee (or in his/her absence by the Vice-Chair) who will ensure that they are conducted as a single meeting and in an orderly fashion.
- 8.9 Members of the Planning Committee attending the site inspection shall not make comments that would create an impression that they have already formed a view on the merits of the application.
- 8.10 Members of the Planning Committee shall not discuss the application, other than to clarify issues of fact, and shall not make a decision while on site.
- 8.11 If a Member finds it necessary to visit a site alone (perhaps because it was not possible to attend the Committee inspection), he or she shall view it from public vantage points only, seek to avoid discussion with interested parties, and, if discussion occurs, make it clear that a decision will be taken when it has been discussed by the Committee after the site inspections.

Procedure

- 8.12 The procedure for Committee site inspections is described in **Appendix 2**.

9 Planning Committee Decisions Contrary to Officer Recommendation

9.1 From time to time the Committee will disagree with professional advice given by the Officers and may decide to determine an application contrary to that advice. When this occurs the Chair of the Planning Committee will endeavour to ensure that the following principles are followed:-

1. Members shall clearly express the planning reason(s) for their decision and these shall be minuted
2. The Officers shall be given an opportunity to explain to the Committee the planning and/or legal implications of their intended decision before the decision is confirmed
3. Where the Committee wish to add or amend conditions/reasons or attach a planning obligation the Officers shall be given the opportunity to explain the planning and/or legal implications before the decision is confirmed

10 Appeals against Council Decisions

10.1 Officers will organise and generally appear as witnesses at planning appeals and other proceedings on behalf of the Council. In some circumstances it may be necessary to appoint consultants to appear for the Council.

10.2 In giving evidence Officers will present the best possible case on behalf of the Council while complying with the RTPI Code of Professional Conduct *.

10.3 In cases where the appeal is against a decision which the Committee has made contrary to the Officers' recommendation, the planning case-officer may be able to give evidence, but in some cases, another officer or consultants will be employed if the Chief Officer Planning & Regulatory considers that the case-officer's previously stated views may be unhelpful to presenting a full case.

10.4 Members can have an important role to play in appeals and may, within set deadlines, make written representations to the inspector and may also appear at Informal Hearings or as a witness at Inquiries. In doing so they should state whether they are acting in their local Councillor capacity or, exceptionally, representing the Council's case.

10.5 Officers shall support Members who wish to attend the appeal and/or make representations and advise them on preparing and delivering evidence.

* The Royal Town Planning Institute Code of Professional Practice requires, inter alia, that Planning Officers who are members of the Institute do not make statements purporting to be their own, but which are contrary to their bona fide professional opinion

11 Member Training

- 11.1 The Council has decided that Members of the Planning Committee shall undertake training and that this opportunity be offered to all Members.
- 11.2 Members will be offered core training within three months of appointment to the Committee. This will take the form of 2 one-day sessions covering planning procedures, the development plan and material planning considerations, probity and other subjects determined from time to time by Officers in consultation with the Members.
- 11.3 Other training will be available in the form of additional sessions, short presentations to the Committee and the circulation of briefing notes.

WREXHAM COUNTY BOROUGH COUNCIL- PROTOCOL ON PUBLIC SPEAKING AT THE PLANNING COMMITTEE - JUNE 2015

1 Introduction

- 1.1 This protocol explains the procedure by which the public can address the Planning Committee. The public cannot address the Committee as of right, but at the discretion of the Chair of the Committee and in accordance with the Council's Planning Code of Practice and the procedure set out below.

2 The Procedure

Pre-Committee Notification of the Public

- 2.1 The Council's letters acknowledging receipt of applications and notifying neighbours of applications include a note explaining how representations can be made and summarising the procedure by which the public can speak at the Committee. This note is also published on the Council's web-site.
- 2.2 Persons must write to, e-mail or telephone **the Administration Manager** in the Planning & Regulatory Department to express a wish to speak or be informed if the application is to go to the Committee so that they can decide later whether to speak. Either way, **the Administration Manager** will advise them that the application may not necessarily be determined by Committee, unless representations are made contrary to the Planning Officers intended recommendation, but that if it is referred to Committee he/she will ring/write to/e-mail them.
- 2.3 Requests to speak must be made before the deadline included in the notice to applicants and neighbours and published on the Council's web-site. It is currently 4.30 p.m. on the Friday before the Committee meeting, but may change over time. If a request to speak is received after the deadline, the **Administration Manager** will make it clear to the member of the public that the Chair of the Planning Committee may exercise his/her discretion to allow them to speak, but that it will not be possible to confirm this until immediately before the Committee meeting (following confirmation by the Chair in the pre-Committee briefing) and that they should ask the **Committee Clerk** when attending the Committee Meeting.
- 2.4 Persons requesting to speak must allow the Council to give their name and telephone number to others of the same view who subsequently request to speak. This allows them to agree who will speak on the night and the issues to raise, but should they not reach agreement, the first person to request to speak will normally be allowed to do so. The speaker will also be asked whom they are representing so that this can be indicated on the report to the Committee (e.g. applicant, agent, neighbour, representing neighbours).
- 2.5 If a second person contacts the Council asking to speak, **the Administration Manager** informs him/her that the Council has already received a request and gives the name and telephone number of the person concerned so that they can discuss content etc. The second person's name is retained in case the first person no longer wishes to speak.

- 2.6 The **Administration Manager** logs requests to speak on a database.
- 2.7 If the application is decided by the Chief Officer Planning & Regulatory under delegated powers the **Administration Manager** rings or e-mails the 'speaker' to inform them of the decision.
- 2.8 When the **Administration Manager** assembles the planning applications item of the Committee Agenda he/she contacts the first person on the list who expressed an interest in speaking, and informs them of:
- the recommendation
 - where the report can be inspected
 - arrangements for attending the Committee (e.g. venue, parking, disabled access, need to report to the Committee Clerk between 3.30 and 3.45 p.m).
 - not needing to repeat points already reported in the written representations

If the first person on the list does not wish to speak the **Administration Manager** will contact the second person.

The Committee Agenda

- 2.9 The Committee agenda will be ordered as follows so that the speakers do not need to sit through the whole agenda:
1. apologies
 2. minutes
 3. **planning applications**
 4. other items for decision
 5. other items for information

The Day of the Committee

- 2.10 On the day of the Committee, the **Planning Control Manager** prepares an Addendum Report which, in addition to listing information and representations received since the agenda was prepared, lists those applications for which there are speakers. The Addendum re-orders the agenda on the night so that those applications with 'speakers' are heard first.
- 2.11 The **Planning Control Manager** informs Ward Members of any intention to change a recommendation.
- 2.12 The **Planning Control Manager** prints the Addendum for collection by the **Committee Clerk** by **1.30 p.m.** on the day of the Committee.
- 2.13 **The Committee Clerk** brings the Addendum to the pre-Committee Briefing meeting.
- 2.14 **Planning Admin Officers** place copies of the Addendum in Member and public seating areas when the application files are brought to the Committee room.

Pre-Committee Chair/Vice-Chair Briefing Meeting

- 2.15 The **Chair** considers late requests to speak. He/she will usually exercise his/her discretion to allow a speaker only where there is already one for 'the other side'.

Otherwise it would be unfair to those who do not attend because they are aware that no one has requested to speak.

Immediately Prior to the Start of the Committee

- 2.16 At 3.30 p.m. (up to **3.45 p.m.**), the **Committee Clerk** greets the speakers, explains that the Chair will call them to speak, where to sit, that they have 3 minutes and that the Chair will ask them to return to their seat unless Members have questions.
- 2.17 If anyone asks to speak who is not listed on the Addendum, the **Committee Clerk** explains that it may be too late, but that he will ask the Chair.
- 2.18 Other people may say that they are speaking instead of the person listed in the Addendum and the **Committee Clerk** notes these on the Addendum. There are unlikely to be disputes about this, but if there are, the person named on the Addendum will be called to speak.
- 2.19 The **Committee Clerk** notifies the Chair by giving him a marked version of the Addendum Report.
- 2.20 **The Chair** says whether he is prepared to allow the late speakers.
- 2.21 The **Committee Clerk** informs the late speaker of the Chair's decision.

Management of the Committee Meeting

- 2.23 **The Chair** welcomes the public and explains that following consideration of the minutes, the items for which there are speakers will be heard first. He refers people to the Addendum, which shows this revised running order and advises them that the agenda will revert to its original order once these items have been dealt with.
- 2.24 If there is a very large application **the Chair** will usually take this first, even before the minutes, in order to allow the public to leave and make the rest of the meeting more manageable.
- 2.25 **The Chair** informs the public that there are Ward Members in the room. This announcement shows the public the different roles performed by the Members in the meeting.
- 2.26 **The Chair** calls forward the first speaker against an application. The speaker sits at the main table with the microphone. The speaker is not permitted to distribute written material, hold placards etc or use videos.
- 2.27 Once the speaker starts, the **Committee Clerk** starts a clock that makes a 'peep' audible to all in the room. Once the 3 minutes are up this makes another audible peep.
- 2.28 If the speaker takes more than 3 minutes **the Chair** usually waits for him/her to finish a sentence and then tactfully says something like 'I'm afraid your 3 minutes are up.' He does not allow them to go over in the interests of fairness, but if they seem to be unfamiliar with the process he may allow them a few seconds more and then allow the speaker 'for' the proposal to have a similar extension of time.

- 2.29 Occasionally **Committee Members** may ask a question of the speaker through the Chair, but the speakers are not allowed to enter into debate with the Members.
- 2.30 **The Chair** asks the speaker to return to his/her seat before inviting the speaker 'for' the application to the microphone.
- 2.31 If one of the speakers does not arrive and the remaining speaker is in favour of the officers' recommendation and there is no Ward Member who wishes to speak, a **Committee Member** may ask to 'test the water' by moving the recommendation and if this is carried without debate, the speaker is not invited to speak. However, if a Ward Member wishes to speak or Members want to ask questions or discuss the application, **the Chair** will invite the speaker to speak first.
- 2.32 **The Chair** invites non-Committee Members to speak **after the public/applicant, but before discussion by the Committee**. These Members come forward to the microphone used by the public.
- 2.33 The application is discussed in the normal way.
- 2.34 **The Chair** reports the decision to the public.
- 2.35 The **Committee Clerk** minutes who actually spoke at the Committee.

Reverting to the Main Agenda

- 2.36 When the items with speakers have finished the original agenda resumes. This merely requires the list of the page numbers that have been dealt with to be marked as the meeting goes along in order to fill the blanks.

**WREXHAM COUNTY BOROUGH COUNCIL - PROTOCOL ON PLANNING COMMITTEE
SITE INSPECTIONS - MAY 2003**

1 Introduction

1.1 This protocol explains the procedure by which the Planning Committee conducts site inspections.

2 Procedure

2.1 All Council Members will be notified of site inspections.

2.2 The applicant will be notified to facilitate access to the site.

2.3 A list of site visits and times will be publicised in accordance with the normal arrangements and the statutory requirements for Committee meetings.

2.4 The Chair (or in his absence Vice-Chair) will call the meeting to order.

2.5 The Planning Officer will give a brief summary of the application and planning issues at the beginning of each inspection

2.6 Non-Committee Members will be permitted to address the Committee on issues of fact.

2.7 The applicant and neighbours will not be permitted to address the Committee during the inspection, but may be asked to clarify issues of fact by the Chair.

2.8 The Planning Committee will not discuss the application or come to a decision on site, but may, through the Chair, ask questions of the officers, applicant or public to clarify factual matters. Any such questions put to the applicant or public shall be put so that they can be heard by both parties.

2.9 The Planning Committee will convene after the last inspection in the Guildhall to reach a decision when Members will have before them all necessary information to be able to make an informed decision and all parties will have the opportunity to be present. The Local Members can address the Committee, but the applicant and neighbours will not be permitted to speak.