

Committee: STANDARDS COMMITTEE

Date: 23 July 2003

Agenda Item No: 5

Title: The Adjudication Panel and the Standards Board

Author: Michael Perry (01799) 510416

Summary

- 1 This report is to update Members on the activities of the Adjudication Panel for England and Standards Board for England since the last report to this Committee on 2 April 2003.

Background

- 2 The Adjudication Panel had published 96 cases on its website up to 30 June 2003. 93 of these cases involved Parish Councillors who had failed to register their interests as required by the Code of Conduct. One of the other cases involved an allegation that a Member of a police authority had failed to treat others with respect and/or had brought his office or his authority into disrepute. A similar allegation was made against a Borough Councillor. The third case concerned allegations that a Borough Councillor had failed to declare a personal interest and had sought to improperly influence a decision.
- 3 Although not a binding precedent, these cases are useful in illustrating the approach taken by the Adjudication Panel in dealing with cases of breach of the Code of Conduct and provide some guidance as to how Members of this Committee should approach determinations of allegations of misconduct when Members have to undertake that function.
- 4 Since the May elections it is unlikely that there will be allegations that Councillors (either at District or Parish levels) will have refused to register their interests at all. It is more probable that allegations of failure to register will be with regard to specific interests. However the stance taken by the Adjudication Panel may be helpful.
- 5 Where the Panel have found as a fact that failure to register interests was deliberate and there have been no mitigating factors it has routinely imposed a disqualification from being a Member of a relevant authority for a period of one year. In the case referred to in paragraph 2 above that a Councillor had failed to declare a personal interest and had sought to improperly influence a decision, again the Panel imposed a one year disqualification. It would seem therefore that the Adjudication Panel take a hard line against deliberate failures to register/declare interests. As the penalties imposed in these cases exceed the powers that this Committee has to deal with breaches of the Code

it is considered unlikely that Ethical Standards Officers will refer such cases for local determination.

- 6 Where there have been mitigating circumstances in cases of failure to register interests the Panel has taken a far more lenient attitude. For example a number of Parish Councillors in one Parish who initially refused to register their interests but relented before the May elections and completed the register in February and March this year and again after the elections were all merely suspended for 1 week. It is probable that where the Ethical Standards Officer charged with the investigation of an allegation is satisfied that any failure on the part of a Member to register or declare an interest was due to an oversight or inadvertence and that this has been rectified such cases will be referred for local determination. Depending on the circumstances of each case it would seem that either no further action or a modest penalty would be appropriate.
- 7 The two cases referred to in paragraph 2 above regarding failing to treat others with respect and bringing the office or authority into disrepute are of assistance only in determining the approach to be adopted in determining whether the Code has been breached, not the sanction where a breach has been found as in both cases the Panel determined that there had been no breach of the Code.
- 8 In the case involving the police authority the allegations centred on a letter written by a Member of the authority to the press. In the case involving a Borough Councillor the allegation arose from an exchange of words between the Councillor and some teachers who were crossing a picket line at a school. In both cases the Panel found that the Member concerned was not acting in his official capacity. They had not therefore breached the provision of the Code requiring Members to treat others with respect as that provision of the Code only applies where the Member is acting in an official capacity. The provision that a Member must not bring his office or his authority into disrepute however applies when a Member is acting in his official capacity or in any other circumstance. The Adjudication Panel decided that this was wide enough to cover the allegations but that on the facts the Code had not been breached. The rationale of the decisions seems to be that whilst failing to treat others with respect when not acting in an official capacity can nevertheless bring a Member or his Authority into disrepute, something fairly extreme would need to occur for there to be a breach of the Code. The mere use of intemperate language would not suffice.
- 9 With regard to the Standards Board there has been a lack of information from the Board. The Statistics section of the website which ought to be updated monthly has not been updated since April. The Bulletin is stated to be a monthly document although no Bulletins have been issued since the March issue which was fully reported to this Committee on 2 April. The annual report for the Board is in excess of 2 months overdue. The Board were to publish a document entitled "The Code Review" in March. This has not yet been issued. The previously promised digest (which was to be available some time ago) is instead to be a Case Review the first of which was to have been issued in June but which is still awaited. Whilst details of individual cases are published

on the website these are not in a format which is helpful for research. Without information from the Board it is not possible to provide Members with an update as to its workings.

FOR INFORMATION

Background Papers: Adjudication Panel for England's website
Standards Board for England's website

Committee: STANDARDS COMMITTEE

Date: 23 July 2003

Agenda Item No: 6

Title: LOCAL DETERMINATION OF ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT

Author: Michael Perry (01799) 510416

Summary

- 1 This report is to inform Members of the effect of regulations recently issued under section 66 Local Government Act 2000 and to seek Members views on various procedural issues which will arise therefrom.

Background

- 2 Section 59 Local Government Act 2000 sets out the powers of an Ethical Standards Officer when investigating allegations of breaches of the Code of Conduct referred to him by the Standards Board for England. The ESO can find that there has been no breach of the Code; that no action need be taken in respect of the matters under investigation; that the matter be referred to the Monitoring Officer for the authority concerned or that it be referred to the Adjudication Panel for England.
- 3 Section 66 of the Act empowered the Secretary of State (now the Office of the Deputy Prime Minister) to make regulations regarding how allegations referred to Monitoring Officers should be dealt with. Although the power of ESO's to refer matters to Monitoring Officers was not dependant upon regulations being issued the Standards Board took a decision that no matters would be referred until regulations were laid before Parliament.
- 4 Due to perceived defects in the primary legislation referred to in a report to this Committee on 2 April 2003 the Government decided that the regulations under section 66 would be introduced in 2 stages, the first (which we due in April) were to enable references to be made for local determination by the Standards Committee. The second stage of regulations (due to be issued after the Local Government Bill becomes law – projected for this autumn) will

deal with investigations of allegations by Monitoring Officers for local determination.

- 5 On 5 June 2003 The Local Authorities (Code of Conduct) (Local Determination) Regulations were made. The regulations came into force on 30 June 2003. They set out the procedure to be followed when a case is referred to a Monitoring Officer and the powers of Standards Committees in dealing with such cases.
- 6 As at present, allegations of breaches of the Code of Conduct will be investigated by an Ethical Standards Officer. Where the ESO considers that there is evidence that there may have been a breach of the Code he may now refer the matter to the Monitoring Officer. It is the duty of the Monitoring Officer to send a copy of any report received from an ESO to any Member who is the subject of the report and to arrange for the Standards Committee to meet to consider that report.
- 7 The Standards Committee are required to convene a hearing in relation to the allegation. This must be within 3 months of the Monitoring Officer receiving the ESO's report but not earlier than 14 days after the report was sent to the Member concerned unless the Member agrees to an earlier hearing.
- 8 The Member concerned must be given the opportunity to present evidence in support of his case and to make submissions orally or in writing either by himself or by a representative. Members may be represented by counsel, a solicitor or, with the prior consent of the Standards Committee, any other person who he wishes to represent him.
- 9 Witnesses may be called at the hearing. The regulations provide for the Standards Committee to arrange for such witnesses as it deems appropriate to attend. The Member concerned may also arrange for attendance of such witnesses as he wishes, although the Committee may limit the number of witnesses he may call if it is of the view that the number of witnesses the Member wishes to call is unreasonable.
- 10 The Standards Board may publish guidance on the conduct of hearings before Standards Committees. If they do the Standards Committee are bound to have regard to that guidance in the conduct of hearings but having given the guidance due regard are not bound to follow it. Subject to these requirements the procedure for the hearing is in the discretion of the Committee. It remains to be seen whether ESOs will start referring cases for local determination immediately or whether they will wait until guidance from the Standards Board has been issued before they do so.
- 11 If a Member fails to attend a hearing the Committee must proceed to consider the allegation and make a determination in the absence of the Member unless it is satisfied that there is sufficient reason for the Member's absence, in which case the Committee can adjourn to another occasion.
- 12 Having conducted a hearing the Committee is required to make one of three findings:

- i. That the Member concerned had not failed to comply with the Code
- ii. That the Member concerned has failed to comply with the Code but that no action needs to be taken in respect of that breach. (Such a finding may be justified where the breach was minor and had been rectified once it was drawn to the Member's attention).
- iii. That the Member concerned has failed to comply with the Code and that a sanction should be imposed.

The Regulations set out the range of sanctions which the Committee can impose in the event that it determines that a sanction is required. If the Member concerned is no longer a Member of the Authority the Committee shall censure him. If the Member remains a Member of the Authority the Committee may:-

- i. Censure him.
- ii. Restrict the Member's access to the Authority's premises and the Member's use of the Authority's resources for a period not exceeding 3 months providing that such restrictions are reasonable and proportionate to the nature of the breach and do not unduly restrict the Member's ability to perform his functions and duties as a Member.
- iii. Partial suspension for a maximum period of 3 months or until such time as the Member makes a written apology or undertakes any training or conciliation specified by the Standards Committee.
- iv. Suspension for a maximum period of 3 months.
- v. Suspension for a maximum period of 3 months or until such time as the Member makes a written apology or undertakes any training or conciliation specified by the Standards Committee.

Any sanction imposed shall commence immediately after its imposition by the Standards Committee but save in the case of censure the Committee may direct that the sanction may commence at any time within a period of six months after its imposition.

- 14 As soon as is reasonably practicable after a hearing the Standards Committee is required to give written notice of its findings to the Member concerned, the ESO who referred the case for determination, the Standards Committee, the Standards Committee of any other authority concerned, any Parish Council concerned and the person who made the complaint leading to the investigation. Unless the Standards Committee find that there has been no breach of the Code of Conduct it must also arrange for a summary of its findings to be published in a local newspaper.
- 15 An appeal against a decision can be made to the Adjudication Panel for England but only with the permission of the Panel. An application for permission to appeal must be made within 21 days of the Member receiving the written notification of the Standards Committee's decision. The Adjudication Panel are required to deal with an application for permission to appeal within 21 days of its receipt. If permission is granted the appeal will be dealt with by written representations if the Member agrees but if the Member does not agree there will be an appeal hearing. The Adjudication Panel on appeal may uphold or dismiss any of the findings of the Standards Committee. If the findings of the Committee are upheld the Panel can either approve any sanction imposed or require a sanction or different sanction to be imposed. Although the regulations

give details as to the right of appearance by Members and their representatives they are silent as to whether the Standards Committee will have the right (or even a duty) to appear.

RECOMMENDED that Members consider and give their views on the following procedural issues:-

1. Should there be a meeting of the Committee prior to the hearing to determine what witnesses the Committee may wish to call?
2. If Members are of a view that there should be a preliminary meeting should the Member concerned be invited to attend?
3. Whether or not the Member concerned is invited to attend any preliminary meeting should such meeting (if held) seek to deal with permission for the Member's representative to appear (unless such representative is solicitor or counsel) and the number of the Member's witnesses to enable the Committee to give consideration as to whether it may be necessary to limit the number of witnesses called?
4. Whether in the case of a sanction other than censure the Committee would as a matter of course feel inclined to defer the commencement of the sanction until such time as the time for appeal has lapsed and if permission to appeal is granted until such time as the appeal is determined?

Background Papers: None

Committee: STANDARDS COMMITTEE
Date: 23 July 2003
Agenda Item No: 7
Title: GUIDANCE ON PROBITY IN PLANNING
Author: Michael Perry (01799) 510416

Summary

- 1 On 9 January 2001 the Code of Practice – Probity in Planning was adopted. This Code currently appears in the Members Handbook. At the time the Code was adopted the Development Control function of the Council operated through the Development Control Sub-Committee of the Planning and Development Committee. Further issues of Councillor conduct and declaration of interests were governed by legislation and the (advisory) National Code of Conduct. Since that time the Development Control and Licensing Committee has become a committee in its own right. The legislation and National Code of Conduct dealing with conduct issues and declarations of interests have been replaced by the (mandatory) Councillors Code of Conduct adopted by the Council in May 2002. The current Code of Practice – Probity in Planning is therefore out of date.

- 2 The Local Government Association have issued revised guidance on Probity in Planning. This report proposes amendments to the Code of Practice – Probity in Planning taking into account the revised committee structure of the Council, the effect of the Councillors Code of Conduct and the LGA guidance.

Background

- 3 Attached at Appendix 1 is the existing Code of Practice – Probity in Planning with suggested deletions and amendments added and underlined.
- 4 The variations reflect the fact that the nature of Members interests have been redefined by the Councillors Code of Conduct. Accordingly references to pecuniary and non-pecuniary interests have been replaced by personal and prejudicial interests.
- 5 Additional guidance regarding impartiality is included and in the light of this revised guidelines are given dealing with site visits. It is suggested that the option given to Parish Councillors to attend and make representations on site should be withdrawn. Whilst there is no objection to Parish Councillors attending the site meeting and answering any factual questions put to them by Members of the Committee it should be borne in mind that site visits are not a part of the decision making process. All interested parties may not be present and not therefore hear the views of the Parish Council. Further non-attendance at site meetings does not prevent a Member attending a subsequent planning meeting and voting even though he or she has not heard the Parish Councillor's representation on site. It is therefore detrimental to the Parishes position for Parish Councillors to make representations on site rather than at the Development Control meeting. If representations are made on site this may also leave the Council open to criticism by the Local Ombudsman or indeed to a judicial review of the Committee's decision.
- 6 Revisions are also suggested to the provisions relating to participation in Development Control meetings to take into account current practice.

RECOMMENDED

That Members approve the draft Code Of Good Practice: Probity In Planning and recommend the same for adoption by the Development Control and Licensing Committee.

Background Papers: Members Handbook
LGA Guidance on Probity in Planning

CODE OF GOOD PRACTICE: PROBITY IN PLANNING**Introduction**

- 1 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It can be highly contentious. It is important that the process is characterised by open and transparent decision making.
- 2 One of the key purposes of the planning system is to control development in the public interest. 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 the Council makes planning decisions affecting those interests openly, impartially, with sound judgement and for justifiable reasons. There should be no grounds for suggesting that a decision has been biased, not impartial or not well founded in any way.

CONDUCT OF COUNCILLORS AND OFFICERS**General**

- 3 Councillors and officers have different, but complementary roles.
- 4 Both Councillors and officers are guided by codes of conduct. The Councillors Code of Conduct provides guidance and standards for Councillors. Breaches of the Code may be regarded as maladministration by the Local Ombudsman and may lead to a Councillor being reported to the Standards Board for England. Such a report may result in sanctions being imposed upon the Councillor concerned. Officers will be subject to a Statutory Employees Code of Conduct. In addition Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. In addition to these codes, the Council's Procedural Rules set down rules which govern the conduct of Council business.
- 5 Councillors must not instruct officers to make a particular recommendation nor to take a particular course of action other than through a decision of the Council or one of its Committees. Officers must give objective, impartial planning advice, based on their professional judgement and not be compromised or influenced by political considerations. Chartered Town Planners may only advocate their own professional view.

Public Duty

- 6 The Councillors Code of Conduct sets out the duties and responsibilities of Councillors. It states that, whilst Councillors have a special duty to their ward constituents including those who did not vote for them, their overriding duty is to the whole community. The Council's District Plan is adopted in the interests of the whole community, following public consultation. It therefore reflects the overall public interest, rather than those of individuals or organisations. Councillors and officers must support the Council's planning policies and make decisions in accordance with them, unless there are sound planning reasons for not doing so.

Voting and Impartiality

- 7 Members of the Development Control and Licensing Committee, must not declare which way they intend to vote in advance of the consideration of an application. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or a charge of maladministration. Members must not make up their minds until they have read the relevant Committee reports, heard the evidence and considered the representations. It is important that Members hear all the evidence and representations prior to reaching a decision. Consequently Members should ensure that they are present in the Council Chamber/Committee Room at all times whilst an item is being discussed. In the event that a Member arrives after consideration of a particular item has commenced or leaves the Council Chamber/Committee Room during the consideration of an item and then returns then that Member should not vote on that item.
- 8 Councillors who are also members of town or parish councils may find that they are expected to express a view at a Town or Parish Council meeting or vote on whether the town or parish council should object or comment on a proposal from its point of view. In such circumstances they should not declare outright support or opposition for a proposal and if they chose to vote should make clear that they may find themselves having to vote differently when sitting on the Committee, having heard the evidence, technical and legal background from officers. In particularly contentious cases Councillors are advised to abstain from the town or parish council vote to make clear that they are not prejudicing the decision they will have to make as a District Councillor. This will assist in ensuring that the propriety of their vote at the Council's Committee meeting cannot be challenged.
- 9 If a Councillor does declare his outright support for or opposition to a proposal at a town or parish meeting or elsewhere before the matter has been put before the Committee where that Councillor would be entitled to vote he should, if attending the Committee meeting when the matter is being discussed or reported, make an open declaration to that meeting to that effect and take no part in the voting on that item. This does not mean that Councillors on the Committee cannot make a comment or reflect local concerns about a proposal before it is considered. However, the view or comment must not pre-determine or be seen to pre-determine the way the Councillor will vote.
- 10 Councillors should not organise support for or against a planning application and should not lobby other Councillors since this would also signal that they had made up their mind before hearing the evidence. Each Councillor should make up his own mind on the evidence and facts presented to the Committee.
- 11 The basis of the planning system is the consideration of private proposals against wider public interests. Opposing views are often strongly held by those involved. Whilst Councillors should take account of various views expressed on an application they should not favour or show bias against or towards any particular person, company or group or any particular site or locality. They should not put themselves in a position where they may appear to do so.

Gifts and Hospitality

- 12 Councillors should be very cautious about accepting gifts and hospitality and must follow the advice in paragraph 16 of the Councillors Code of Conduct. They should

also have regard to the Guidance on receipt of gifts and hospitality in the Members' Handbook (pages 27-29). Officers should follow that Guidance.

Declaration and Registration of Interests

- 13 The Councillors Code of Conduct set out requirements and guidance for Councillors, for the registration of interests on declaring personal and prejudicial interests and the consequences of having such interests. These must be followed scrupulously and Councillors should review the situation regularly. It must be borne in mind that the Code advises that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct. Responsibility for this rests individually with each Councillor. When declaring an interest at Committee this should be done at the beginning of the meeting and Councillors should be clear and specific in identifying the item on the agenda in which they have a personal interest, if so whether the interest is prejudicial or not and in either event the nature of that interest.
- 14 Officers must declare any personal or financial interest in any planning matter before the Council, must not deal with such matters on behalf of the Council and must not give advice to Councillors or other officers on them. An officer with a personal or financial interest in a planning matter must withdraw from any relevant Committee meeting whilst that matter is discussed. Planning Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental or other pressure or amenity groups.

Development Proposals Submitted by Councillors and Officers

- 15 Proposals to Council by serving and former Councillors and officers and their close friends and relatives could easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way to give no grounds for accusations of favouritism. Such applications should be reported to the Committee and not dealt with by officers under delegated powers.
- 16 Serving Councillors who act as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their employers as part of their job, must declare an interest and take no part in the processing of the application or in the decision making process. Any Councillor who is a planning or similar agent will not be appointed to the Committee.
- 17 Members of the Committee should not act as agents or submit planning applications for other parties or voluntary bodies. To do so would give rise to suspicion that the Committee was not impartial or may be influenced in the decision making process.
- 18 The procedures set out in paragraphs 15 – 17 shall also apply in relation to determining application and notifications to carry out works to trees.

Council Development

- 19 The Council's own proposals for development and determining applications and notifications to carry out works to trees must be dealt with on exactly the same basis as applications submitted by members of the public. Officers must make recommendations having regard only to proper planning or tree matters and must not have regard to any other benefits, financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning or tree proposal.

Councillors must make decisions similarly. Such applications will be reported to the Committee and not dealt with by officers under delegated powers.

Lobbying of and by Councillors

- 20 Lobbying is an attempt to influence Councillors' views in order to achieve a particular decision. It can be of Councillors by applicants, agents or objectors or by other Councillors. Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. Planning decisions must be made strictly on the facts and policies relating to each application. Lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of a Councillor being called into question. When being lobbied, Councillors, and members of the Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such circumstances they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant officer in order that their opinions can be included in the Officer's report to the Committee. If they do express an opinion they should make it clear that they will only be in a position to take a final decision after having received and considered all the relevant evidence and arguments at Committee.
- 21 A Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If a Member responds to lobbying by deciding to go public in support of, or against, a particular outcome it would be very difficult for that Member to argue convincingly when the Committee takes its decision that he has carefully weighed the evidence and arguments presented at Committee. Although not amounting to a prejudicial interest according to the Code the proper course of action for such a Member would be to make an open declaration not to vote. However, this is a severe restriction on the Member's wish - duty, even - to represent the views of the electorate. Thus, Councillors should, generally, avoid organising support for or opposition to a planning application and avoid lobbying other Councillors. Such actions can easily be misunderstood by parties to the application and by the public. Where a Member makes a declaration that he or she will not vote then the Member should withdraw from the Committee table but may remain in the room and speak on behalf of his or her ward members either for or against the application.

Circulation of Information

- 22 Planning applications must be determined on the basis of the documents and information formally submitted. Any submissions from applicants' agents or objectors which are formally received by the Council can properly be taken into account in making a decision. It can cause problems if Councillors are given information or assurances by applicants which are not part of the formal application and which are not, therefore, enforceable. Problems can also arise if Councillors are given information by objectors which may be misleading, untrue or irrelevant. It can be problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability. Councillors should forward such information to the officers for consideration prior to the Committee meeting.

No Political Decisions on Planning Applications

- 23 Decisions on planning applications must not be taken in political group meetings prior to Committee meetings. The view of the Ombudsman was that the use of political

whips to influence the outcome of a planning application was contrary to the National Code and amounted to maladministration. There is nothing in the Councillors Code of Conduct which would contradict this view. It could also give rise to legal challenge.

THE DECISION MAKING PROCESS

Pre-application Discussions

- 24 Discussions between a potential applicant and the Council (through its Planning Officers) prior to the submission of the application can be of considerable benefit to both parties and is encouraged by the Audit Commission, the Local Government Association and the National Planning Forum. It should always be made clear at the outset that the discussions will not bind the Council to make a particular decision and that any views expressed are personal and provisional. Advice should be considered and based upon the development plan and material considerations. There should be no significant difference of interpretation of Planning Officers. In addition, all officers taking part in such discussions should make clear whether or not they are the decision maker. A written note should be made of all potentially contentious meetings and telephone discussions. A follow up letter may be advisable, especially when documentary material has been left with the Council.
- 25 Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should advise prospective applicants to contact the appropriate officer for advice on both merits and procedures. They should make it clear that they will only be in a position to take a decision after having considered the Officers' reports and any representations and heard any debate in the Committee meeting.
- 26 Councillors should not meet applicants or agents or third parties in connection with a current or proposed application. If Councillors do agree to meet they should only do so in the presence of a Planning Officer. In exceptional circumstances, where it is not possible to arrange a meeting in the presence of a Planning Officer without causing undue delay Councillors should notify the relevant Planning Officer of the proposed meeting beforehand and the notification recorded in the application file. Councillors should listen and may ask questions but should not comment or negotiate. They must make clear that any views they express are personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a Councillor has discussed any proposal with the applicant, agent, supporters or objectors must be made clear when the application is before the Committee for determination.
- 27 If Councillors receive information that is relevant to a planning decision they must declare that information to the relevant Planning Officers and to the Committee. Discussions with applicants, agents or objectors should be reported and any correspondence made available to officers before the Committee meeting.
- 28 Paragraphs 25 to 27 inclusive do not apply to Councillors when they are acting as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their employers as part of their job. However, they should make it clear to their clients that they cannot and will not use their position as a Councillor to influence the outcome of an application.
- 29 Any Councillor may request that an application delegated to officers for determination be reported to committee for determination.

Reports to Committee

- 30 Officer reports to Committee should be accurate and cover, amongst other things, the substance of objections and views of consultees. Relevant points should include a clear exposition of the development plan, the site, its related history and any other material considerations. Reports should contain a clear written recommendation. Oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur. If the report's recommendation is contrary to the provisions of the development plan the material considerations which justify this must be clearly stated.

Committee Procedures and Decision

- 31 Pre-Committee briefing meetings between officers and Councillors are not part of a formal Committee proceeding. They must always be after the agenda has been set and officers' recommendations have been made. The purpose of the meetings is to inform the Chairman/Vice-Chairman on planning issues, the reasons for officer recommendations and to give the Chairman/Vice-Chairman an opportunity to give notice of or to be told about any potential problems or the need for more information.
- 32 Councillors should endeavour to obtain factual information from officers prior to the meeting. This can assist in reducing delays which may be caused by deferral to obtain further information.
- 33 The Committee's decision must be in accordance with the provisions of the development plan unless material considerations indicate otherwise. When Councillors propose to make a decision contrary to officer recommendation the proposer must set out clearly the reasons for so doing. The Chairman will ensure that the Planning Officer is given an opportunity to comment before a vote is taken. Any decision contrary to the provisions of the Development Plan must be clearly justified and recorded in the Minutes.
- 34 Any information received after preparation of the Committee report which is relevant to the determination of an application will be summarised on the supplementary representation sheet circulated prior to the meeting. Any information or documents received after its printing will be verbally reported to the meeting. In certain circumstances consideration of the application may need to be deferred.

Deferments

- 35 The decision on any application should not be deferred without proper justification. For example, the justification for deferring a decision might be to ensure that all the proper consultation procedures are being followed or to secure amendments without which the application would have to be refused. However, where an amendment would be significant a fresh application is appropriate. If Councillors have concerns regarding technical advice received they may wish to defer to seek independent advice before deciding the application. The reason for deferring an application must be clearly set out by the proposer and recorded in the Minutes.

Public Attendance at Committee Meetings

- 36 All planning applications, other than those determined by officers exercising delegated powers, will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for exempting information in accordance with the Local Government Act 1972.

- 37 Applicants, agents and members of the public, representatives of parish councils and Members of the Council who are not Members of the Committee may speak at the meeting. The procedures for notifying the Council and speaking are set out on Members' Handbook page E26.

Site Visits

- 38 Site visits can cause delay and additional costs and should only be used when the expected benefit is substantial. A site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers. The reason for requesting a site visit must be clearly set out by the proposer and recorded in the Minutes. All site visits must be carried out in accordance with the Council's agreed procedures (Handbook page E.). A site visit is not part of the formal Committee proceedings and is not a forum for debate or making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or promote an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

ADMINISTRATIVE MATTERS

Member Training

- 39 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally at meetings or as briefing notes (for example in the Members' Bulletin). Officers will arrange training on planning issues. All members of the Council will be invited to attend. All members of the Development Control & Licensing Committee should attend.

Monitoring of Decisions

- 40 The Council should monitor planning decisions taken, on an annual basis, both in terms of quality and consistency. Annually, Councillors will visit a sample of implemented planning permissions to assess the quality of the decisions. The Committee should formally consider the annual report and decide whether it gives rise to the need to review any policies or practices. The review may include information identifying the number of cases where officers' recommendations were not accepted and the outcome of any related appeal decisions. The results of the monitoring will be reported to Councillors along with any recommendations to improve quality, consistency or performance.

Record Keeping

- 41 The planning application files should be complete and accurate containing sufficient information and itemising events so that the reason for the decision can be easily understood. Only "background papers" as defined in the Local Government Act 1972 are automatically available as a right to third parties. These would include, in addition to the application document, associated letters and supporting information, replies from consultees and letters from supporters and objectors.

The same principles apply to applications determined under officers' delegated powers. Such decisions should be as well documented and recorded as those taken by Councillors. These principles apply equally to enforcement and development plan matters.

Complaints

- 42 Any complaints received about the way in which a planning application or other planning matter has been dealt with in terms of procedures or fairness will be investigated under the Council's complaints procedure. The fact that someone may disagree with the decision the Council has reached is not a complaint which will normally necessitate investigation as such. However, officers will explain the reasons for the Council's decision in any particular case.

DEVELOPMENT CONTROL & LICENSING COMMITTEE PROCEDURE FOR MEMBERS' SITE VISITS

- 1 The decision to visit the site of a current planning application is taken by the Committee and the reasons are recorded in the minutes of the meeting.
- 2 The purpose of the site visit is to acquaint Members with the site, not to hold a debate or take a decision other than in the Committee Room.
- 3 Site visits normally take place during the morning of the relevant meeting.
- 4 The applicant or his agent is notified of the visit and requested to make access available and peg out the proposed location of the building(s), if appropriate. The applicant may attend the site visit, but may not make any representations.
- 5 One representative of the Town or Parish Council may attend but may not make representations
- 6 The local District Council Member(s) is/are notified and he should contact the Chairman if he wishes to attend but may not make representations at the site visit.
- 7 On site, the Chairman usually states the reasons for the visit and invites the planning officer to run briefly through the proposal. Members should remain in one group for the duration of the visit.
- 8 Sometimes, neighbours and other interested persons are also at the site, particularly if it is next to public land. The landowner has the right under common law to exclude anyone from his land if he so chooses. Members are requested to ignore unauthorised representations.
- 9 A detailed note shall be taken of the site visit and reported to the Full Committee

Notes

Apologies for absence from Members to the Chairman assist in the conduct of the meeting and timekeeping.

Should a Member be delayed or in any doubt about the location of a site, he should contact the Chairman.

PROCEDURE FOR PARISH/TOWN COUNCIL REPRESENTATIVES , MEMBERS OF THE PUBLIC AND MEMBERS OF THE COUNCIL WHO ARE NOT MEMBERS OF THE COMMITTEE ATTENDING MEETINGS OF DEVELOPMENT CONTROL COMMITTEE

Agendas

- 1 The Council will send out the agenda sheets for all Committee meetings to all Parish and Town Councils, unless a Parish/Town Council has specifically requested not to receive any agendas.
- 2 The agenda sheets will be sent out a week before the meeting.
- 3 If the Parish/Town Council would like a copy of a particular report, the Clerk should telephone the Committee Officer listed at the end of the agenda.

Attendance by Parish/Town Councillors , Members of the Public and Members of the Council who are not Members of the Committee

- 1 Town/Parish Councils and applicants/agents, objectors, supporters and Members of the Council who are not Members of the Committee may make representations on all applications.
- 2 A representative of the Town or Parish Council and Members of the Council who are not Members of the Committee may also attend site visits. (see Procedure for Members' Site Visits).
- 3 The Town or Parish Council representative ,members of the public and Members of the Council who are not Members of the Committee may speak for up to three minutes. They must contact the Committee Officer at Saffron Walden (telephone 01799 510369) or e-mail: mcox@uttlesford.gov.uk by 2.00 pm on the Friday before the meeting to advise that they will be speaking.
- 4 At the meeting those making representations should sit in the public area until the relevant item is to be considered.
- 5 Those making representations should sit at the allotted desk alongside Members to make their statement and having made their statement should then return to the public area (or leave the meeting).