



FAREHAM BOROUGH
COUNCIL

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GUIDANCE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

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Introduction

1. The Planning system involves taking decisions about the use and development of land in the wider public interest having regard, in particular, to the Development Plan. The system also includes the processes for preparation of the Development Plan itself and associated supplementary guidance and development briefs. Parties such as landowners, residents and businesses have an interest in all these processes. In their considerations members and officers of the Council have to balance the requirements of the individual, whether the applicant or a neighbour, against the broader public interest.
2. It is fundamentally important that the planning system should not only be fair but should be seen to be fair. Accordingly, a number of bodies including the Local Government Association, the Audit Commission, and the Royal Town Planning Institute, have recommended that planning authorities should agree and adopt guidance for members, officers and developers in the way the authority goes about its business.
3. This Guidance deals with the conduct of members and officers and does not (subject to the provisions relating to site inspections) deal with planning processes or merits of planning issues.

General Role and Conduct of Members

4. Members of the Council are accountable to the electorate and officers are accountable to the Council as a whole. Members must follow the Council's adopted general Code of Conduct for Members, and officers must comply with any statutory or other adopted Code of Conduct for Officers.
5. In addition, members and officers must comply with all Standing Orders and Financial Regulations.

Role of Elected Members in Relation to Planning

6. Elected members set the Council's planning policy, make policy decisions, and determine planning applications (except those delegated to officers) and planning enforcement issues within the context of that policy. When members come to make a decision on a planning matter, they must:
 - Act fairly and openly
 - Approach each application with an open mind
 - Carefully weigh up all relevant issues
 - Determine each application on its own merits, taking into account all material planning considerations

- Ensure that there are clear and substantial reasons for their decisions, based on planning considerations, and that those are clearly stated.
7. Members should not favour any individuals or groups and although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members cannot accept an instruction from anyone, including a political group, to determine an application or make other decisions in a particular way but must determine the application or matter on its planning merits, taking into account all material considerations.
 8. Paragraphs 5 and 6 above apply to all members dealing with planning matters, whether as an Executive Member, a member of the Planning Committee, an Overview Panel, in full Council, or other body of the authority.

Role of Officers

9. The function of officers is to advise and assist members in matters of planning policy and in the determination of planning applications and enforcement issues by:
 - Providing impartial and professional advice
 - Making sure that all the information necessary for the decision to be made is given
 - Providing a clear and accurate analysis of the issues
 - Setting applications and enforcement issues against the broader Development Plan policies and other material consideration
 - Giving a clear recommendation where this is possible
 - Carrying out the decisions of members of the Executive or the Planning Committee
 - Exercising any powers delegated to them in accordance with the above principles and any conditions attached to the delegation.
10. Officers should comply with rules of conduct of professional bodies to which they are subject, including the Royal Town Planning Institute, and it is appropriate that officers who are not members of the Institute should work, so far as is possible, to its principles of conduct.

Disclosure of Interests

11. In dealing with any planning matter, including any proposed or actual application for planning permission members must comply with provisions of the Code of Conduct for Members in relation to personal and prejudicial interests, disclosure of and participation in relation to such interests.
12. Members should ensure that they are consistent in disclosing interests covered by their Code of Conduct, whether at a meeting of a body of the Council that they attend, or at full Council.

13. These provisions of this Guidance apply equally to officers involved in planning matters and interests should be disclosed accordingly.

Gifts and Hospitality

14. Gifts and hospitality can give rise to particular problems in respect of the credibility of the planning process, and members and officers should be aware of potential criminal offences under legislation relating to corruption. Members should have regard to the Code of Conduct for Members and also the Council's own Statement of Gifts and Hospitality. Members and officers should avoid any behaviour that might be taken as indicating that they are open to offers of gifts and hospitality.

Lobbying

15. It is quite common for applicants or other interested parties to wish to discuss with members or seek to influence members (whether or not members of the Planning Committee) before a planning application or policy issue is determined.
16. Discussion can help members' understanding of the issues and concerns associated with an application or planning matter. However, members are under an obligation to determine matters on their merits. If they do express an opinion, they should make it clear that they will only be in a position to make a final decision after having heard all the relevant evidence and arguments at committee.
17. When being lobbied, all councillors and members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have made up their mind on the issue before they have been exposed to all the evidence and arguments.
18. Members must not put undue pressure upon officers to make a particular recommendation in their report.
19. Members of the Planning Committee must not organise support or opposition or lobby other councillors to the extent that their impartiality may be called into question.
20. It is also common for applicants, objectors and other interested parties to seek to influence or lobby officers. Officers must avoid compromising or binding members in relation to any issue, whether those be members involved in determining policy or in determining applications. They will make it clear to any person seeking to lobby or influence that no commitment can be given and that they can give only personal and provisional views.

Pre-Application Discussions

21. Pre-application discussion and meetings between applicants and officers are encouraged. Officers will make it clear at the outset, and at the end of discussion, that the advice given is personal and provisional and will not bind the Council to a particular decision.
22. Pre-application meetings will normally be at officer level but, exceptionally:
 - Where meetings are to involve members, they will be arranged by and attended by officers and should include the Chairman of the Planning Committee or his/her representative
 - Potentially contentious meetings should normally be attended by at least two officers.

Decisions Contrary to Officer Recommendation

23. From time to time, members dealing with planning matters will disagree with the professional advice given by officers. In cases where there is a decision, for good and valid reason, not to follow officers' advice, those reasons should be recorded in the minutes of the meeting. Where it is not possible for members to define the reasons with sufficient precision at the meeting, determination should be deferred/adjourned until officers have presented draft reasons for approval by members.

Applications by Members and Officers

24. Applications made by serving members and officers should be notified to the Monitoring Officer and the Chief Development Control Officer. The member or officer should take no part in the processing of the application.
25. Such applications will be determined by the relevant Committee and not by officers under delegated powers.
26. Proposals for development by the Council or upon land in which the Council has an interest will not be dealt with by officers under delegated powers and will be treated in the same way as those from private applicants.

Site Inspections and Meetings

27. Site inspections can be useful to identify features of a proposal that may be difficult to convey in written report, but site inspections can cause delay and additional costs. Consequently site inspections and site meetings should only be used where expected benefit is substantial and justifiable.

28. Where a decision is to be made on site, a site meeting must, to be legal and valid, take the form of a formal meeting under the provisions of the Local Government Act 1972.
29. Specific provisions as to site inspections and meetings are set out in an appendix to this Guide.

APPENDIX**SITE INSPECTIONS AND MEETINGS**

1. Site inspections may be made by the Planning Committee in relation to development control matters and by the Planning Overview Panel or the Executive in relation to other planning matters.
2. A site inspection may be made:-
 - (a) on the recommendation of an officer, or
 - (b) at the request of a member of the relevant body,

provided that reasons for the recommendation or request are given and account is taken of paragraph 28 of the Guidance for Members and Officers Dealing with Planning Matters.
3. The relevant body may agree to a site inspection at the request of another member of the Council, an applicant or an objector, provided that reasons are given and paragraph 28 are taken account of as mentioned at (2) above.
4. In all cases, when a site inspection is agreed to, the reasons will be recorded.
5. No site inspection will normally take place on private land without the consent of the owner,
6. If consent is not given, a site may be viewed from outside of it, provided that no obstruction or nuisance is caused,
7. Whilst an inspection is taking place on private land, members will not debate the merits of the application or other matter under consideration. Factual advice only may be sought from officers.
8. Members of the public and objectors, or other persons, will not be allowed to enter private land without the consent of the owner.
9. If it is intended that a decision upon the application or other matter is to be made immediately following the inspection, the decision must be taken during a meeting formally convened under the Local Government Act 1972. Decisions (if required) will always be taken after a site inspection unless it has been agreed otherwise at or prior to the inspection.
10. The meeting must be held in a public place, due notice having been given.
11. The meeting must be held in such a way that members of the public and press are able to hear the debate and the advice of officers.