



Mansfield District Council

*Creating a District where
People can Succeed*

LOCAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

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LOCAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

1. PURPOSE OF THE CODE OF CONDUCT

- 1.1 Mansfield District Council is a local planning authority, and the most important responsibilities it has are to make decisions on planning and other applications made under the Town and Country Planning Acts and to prepare, adopt and review a Local Development Framework (LDF), which is a comprehensive statement of planning policies and proposals covering the whole District for a period of ten years.
- 1.2 Planning is highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of development plans and notices. It is important therefore that the process is characterised by openness and transparent decision making.
- 1.3 The purpose of this Code is to explain how the decision-making processes work in relation to planning applications and the LDF. One of the key purposes of the planning system is to control development in the public interest. In 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 planning authority must make planning decisions affecting these interests, openly, impartially, with sound judgement and for justifiable reasons.
- 1.3 It is imperative that the planning authority is seen to be completely transparent in the way in which business is conducted and that it treats all applicants fairly and equally. The process should leave no ground for suggesting that a decision has been partial, biased or not well founded in any way. It is hoped that the guidance contained in the following paragraphs will assist councillors and officers to ensure that all business is conducted fairly, equitably and impartially. It will be of particular interest to members of the public who are applicants for planning permission, or who are affected by other people's planning proposals. It will also be of value to those interested in the preparation of the LDF.
- 1.4 Article 6 of the European Convention on Human Rights is concerned with guaranteeing a right of procedural fairness, transparency and accountability in the determination of civil rights and obligations. Ensuring that decisions are adequately recorded and supported by proper reasons will be encouraged as good practice. The Local

Government Association (LGA) suggests councillors read its guidance “Deciding Rights – Applying the HRA to good practice in local authority decisions”, to which members should already have access.

2. STATUS OF THE GUIDANCE CONTAINED WITHIN THE CODE

- 2.1 This Code is consistent with and makes reference to the Local Authorities Model Code of Conduct as provided under the Local Authorities (Model Code of Conduct) Order 2007 (the “Model Code”), the Royal Town Planning Institute’s Code of Professional Conduct and the findings of a number of inquiries into allegations of misconduct at North Cornwall, Warwick and Bassetlaw Councils, together with advice issued by the Audit Commission, the Local Ombudsman and the National Planning Forum. Failure to take heed of the recommendations and advice referred to above could be taken into account in any investigations into possible misconduct or could have implications for the standing of councillors and officers.
- 2.2 The Model Code is a general document which has now been adopted by the Council although it does not provide specific advice relevant to planning matters. It does, however, provide the overall context within which this Code must be set and this Code is designed to supplement the Model Code.
- 2.3 Attention is particularly drawn to those parts of the Model Code dealing with personal and prejudicial interests as difficulties with such interests can often arise for councillors on the Planning Committee.
- 2.4 The Mayor will be treated as a councillor for the purpose of this code unless the law or context implies otherwise. In particular the mayor will follow the rules about disclosure of interests and comply with the Model Code and this planning code of conduct.
- 2.5 This Code supplements the Model Code and if a Councillor does not comply with the provisions of this Code they may be subject to similar sanctions that would apply to a breach of the Model Code.

3. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 3.1 Councillors and officers have different, but complementary roles. Both serve the public, but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise councillors and the Council and carry out the Council’s work. They are employed by the Council, not by individual councillors or political parties and it follows that instructions may only be given to officers through a Council or Committee or a delegated decision.
- 3.2 A successful relationship between councillors and officers can only be based on mutual trust and understanding of each other’s positions. This relationship, and the trust which underpins it, must never be abused or compromised.

3.3 Councillors

- 3.3.1 The Model Code provides guidance and standards for councillors. Breaches of the Model Code may be investigated and regarded as maladministration by the Local Ombudsman and may also be referred to the Council's Standards Committee for local assessment and subsequently may be referred to and investigated by the Standards Board for England. In the context of members of a Planning Committee, the Model Code 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. Councillors 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. Councillors must, therefore, represent their constituents as a body and vote in the interests of the whole district when discharging their planning responsibilities.
- 3.3.2 A councillor must not, in their official capacity, or in any other circumstances, use their position as a councillor improperly to confer on or secure for themselves or any other person an advantage or disadvantage. The basis of the planning system is the consideration of private proposals against the wider public interest. Much is often at stake in this process and opposing views are often strongly held by those concerned. Whilst councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they are able to act in this way should consider whether they are best suited to serve on the Planning Committee.
- 3.3.3 Councillors not serving on the Planning Committee, have the same rights in the Planning Committee as a member of the public who wishes to speak on an application. As such they should confine themselves to addressing the Committee for a maximum of four minutes on the planning merits or otherwise of the application. Councillors can either speak personally, in favour or against an application or as a ward member and represent the views of their ward, either in favour or against an application. A Councillor addressing the Committee should indicate to the chair in which capacity they are addressing the Committee.

3.4 Officers

- 3.4.1 Officers are bound by the Employees Code of Conduct, and in addition planning 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. The RTPI Code requires officers not to make or subscribe to any statements or reports which are

contrary to their own bona fide professional opinions and to take all reasonable steps to ensure that all town planning matters in the organisations for which they have responsibility are conducted in accordance with the Code, whoever undertakes such work.

- 3.4.2 In making delegated decisions on applications, officers will;
 - 3.4.2.1 act fairly and openly;
 - 3.4.2.2 approach each application with an open mind;
 - 3.4.2.3 carefully weigh up all the material planning considerations;
 - 3.4.2.4 avoid undue contact with interested parties;
 - 3.4.2.5 ensure that reasons for decisions are clearly stated and recorded.
- 3.4.3 In reporting to the Planning Committee on non-delegated applications, officers will;
 - 3.4.3.1 provide professional and impartial advice;
 - 3.4.3.2 ensure that all information necessary for a decision to be made is given;
 - 3.4.3.3 set the application in the context of the Development Plan and all other material considerations;
 - 3.4.3.4 include the substance of objections and the views of people who have been consulted;
 - 3.4.3.5 provide a clear and accurate written analysis of the issues;
 - 3.4.3.6 give a clear recommendation.
- 3.4.4 Any material planning information which is received by officers after the written report has been prepared will be presented orally to the Planning Committee by officers. However, if information is submitted by supporters or objectors at the Planning Committee meeting that has not previously been submitted, officers shall scrutinise the information and advise Councillors on the relevance of the information and whether it raises any new planning issues that may require further consideration.

4. **DECLARATION AND REGISTRATION OF INTERESTS**

4.1 **Councillors**

- 4.1.1 The Model Code sets out requirements and guidance for councillors on declaring personal interests, including circumstances where such interest is to be viewed as prejudicial, which will preclude the councillor from any part of the decision making process with regard to the application in question, and the consequences of having such interests.
- 4.1.2 Therefore it is necessary for councillors to consider whether they have any personal or prejudicial interest in any matter before them. The “Declaring Interests Flowchart” at Appendix 1 sets out the principles a councillor should consider in determining whether or not they have a

personal or prejudicial interest. It also sets out the steps required by the councillor in the event that this occurs.

Officers

- 4.2. Officers shall play no part in the processing of any application in circumstances where there is, or would be perceived to be, a conflict between their personal and financial interests, those of their families or friends, and their professional duty. As required by the Code of Conduct for Officers they shall formally register the existence of any such conflict in writing to the Corporate Director. Any interest the Corporate Director has in an application shall be declared to the Managing Director.

5. **MEMBER TRAINING**

- 5.1 The Council accepted a recommendation from the Standards Committee and resolved on 10 December 2007 that members serving on the Planning Committee are required to undertake necessary training comprising a basic understanding of planning procedures and policies within three months of their appointment to the Committee.
- 5.2 A minimum of six mandatory councillor training sessions relating to planning matters are programmed to take place each Council year. A register of attendance will be kept and maintained by the Head of Planning, Community Safety and Regulatory Services. Mandatory training sessions are necessary for those members who wish to continue to serve on the Planning Committee. If councillors do not attend any training sessions, the matter will be reported to the Planning Committee by the Head of Planning, Community Safety and Regulatory Services, and that Committee will have the power to require councillors to undertake training if necessary or not to take any further part in the Committee's proceedings.
- 5.3 Councillors should also endeavour to attend any other specialised training sessions provided since these will be designed to extend their knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the training sessions referred to above. This will assist the councillor in carrying out their role properly and effectively.
- 5.4 Councillors should also participate in the annual review of a sample of planning decisions to ensure that councillors' judgements have been based on proper planning considerations.

6. **DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS AND COUNCIL DEVELOPMENT**

- 6.1 Proposals to their own authority by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. Whilst it is perfectly legitimate to submit such applications, it is vital that they are handled in a way that gives no grounds for accusations of favouritism.
- 6.2 Councillors serving on the Planning Committee should not act as agents for a member of the public pursuing a planning matter within the District, if they do they must not take any part in the decision making process.. Similarly, any councillors or officers, submitting their own planning applications to the District Council, must take no part in the decision making process.
- 6.3 Councillors serving on the Planning Committee may take part in any decision where the Council is the landowner, developer or applicant provided that the councillor has not acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through the councillor's significant personal involvement in preparing or advocating the proposal the councillor will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 6.4 Where a councillor falls within any of the categories set out at 8.2 or 8.3 to avoid an allegation of pre determination they must do the following;
- 6.4.1 they must not speak and vote on any such matter considered by the Planning Committee.
- 6.4.2 they need not withdraw from the meeting for that purpose but they may prefer to do so for the sake of appearances.
- 6.4.3 they should explain that they do not intend to speak and vote because they have judged or they could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes
- 6.5 Whilst a councillor who falls within any of the categories set out at 8.2 or 8.3 should not take part in the decision, they may exercise their separate speaking rights as a Ward/Local Member where they have represented their own views or those of local electors only. If a Councillor does wish to exercise this right then they should:
- 6.5.1 advise the Chairman that they wish to speak in this capacity before commencement of the item;

- 6.5.2 leave the member seating area for the duration of that item; and;
- 6.5.3 ensure their actions are recorded
- 6.6 Where a councillor or an officer submits their own proposal, they must inform the Head of Planning, Community Safety and Regulatory Services, in writing, at the time of making the application. Such proposals shall be reported to the Planning Committee as main items and may not be dealt with by officers under delegated powers. The report will include a statement advising that the application has been submitted by or on behalf a councillor or officer.
- 6.7 Where a planning application is submitted by or on behalf of a close friend or relative of an officer of the planning service, it shall be the responsibility of the officer to notify the Head of Planning, Community Safety and Regulatory Services of this in writing. The letter shall be placed on file as a matter of record. If the nature of the relationship is such that a reasonable and detached member of the public would consider that the officer's actions may be influenced as a consequence of the relationship, the officer must take no further part in the processing of the application. Where an application is submitted by the close friend or relative of a councillor, the councillor concerned shall notify the Head of Planning, Community Safety and Regulatory Services in writing and such notification shall be placed on file as a matter of record. The responsibility for the decision in such cases will fall to the Planning Committee and all applications must be determined in an identical manner to applications made by the general public and the same planning policy considerations applied.
- 6.8 Where officers have a friendship with a professional operating within the district, and the registration of their interest would happen with such frequency that their ability to carry out their normal duties would be impaired, they may apply in writing to the Head of Planning, Community Safety and Regulatory Services for special dispensation. Such dispensation shall be given in writing and shall only apply where the officer concerned has their work routinely supervised by two or more senior officers.
- 6.9 Proposals for the District Council's own development will be considered impartially and without favouritism by councillors and officers in accordance with the Council's approved scheme of decision making. All decisions on such applications shall be made strictly on their planning merits without regard to any financial or other gain which would occur to the Council if the development was permitted. Officers involved in work relating to the promotion of such development shall not seek to influence, improperly, any officer responsible for the processing of the application. However, any such discussions regarding the provision or request for additional

information or seeking clarification should be recorded on file for the purposes of transparency.

7. LOBBYING OF AND BY COUNCILLORS

7.1 Lobbying is the process by which members of the public and applicants seek to influence councillors prior to a decision at Committee or by officers. Lobbying is a normal and proper operation of the political process, as it is essential for the proper operation of the planning system that local concerns are adequately aired. However, to avoid compromising their position, all councillors should not;

7.1.1 lobby members of the Planning Committee;

7.1.2 act as an advocate, or put pressure on officers, for a particular recommendation.

7.2 Lobbying can lead, unless common sense and care is exercised by all parties involved, to the impartiality and integrity of a councillor being called into question. When being lobbied, councillors, and members of the Planning 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 an issue before they have been exposed to all the evidence and arguments. In such situations 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 Planning 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 heard all the relevant evidence and arguments at the Planning Committee.

7.3 Councillors must keep written records of any lobbying approaches made to them, and their response. They should keep one copy and pass another copy to the Head of Planning, Community Safety and Regulatory Services, as soon as possible after the approach has been made. Completed records will be maintained on a central file held by the Head of Planning, Community Safety and Regulatory Services.

7.4 All instances of lobbying must be declared at any relevant Planning Committee.

7.5 Where a councillor considers that he or she cannot avoid giving an opinion prior to the Committee meeting, then that councillor must declare that such an opinion has been given. This declaration will be

recorded in the Minutes and the councillor should refrain from voting on the matter concerned.

- 7.6 Where a councillor who sits on the Planning Committee receives written representations directly in relation to a planning application or LDF proposal, the councillor should pass the correspondence to the Head of Planning, Community Safety and Regulatory Services. This will ensure that any representations made can be taken into account in any report made to the Planning Committee.

Social Contacts

- 7.7 A councillor who sits on the Planning Committee should minimise their social contact with known developers and their agents. Unless councillors are to enter into pre-application discussions with developers in line with paragraph 10 then councillors should otherwise refrain altogether from such contact when developments are contemplated or applications are being proposed or when controversial decisions are likely to be needed.

Hospitality

- 7.8 Members of the Planning Committee should reject any offers from lobbyists of gifts, hospitality or future favours made personally or by way of deals for the Council or the community, from lobbyists. Any such approach should be recorded in the Council's register for this purpose.
- 7.9 In exceptional circumstances, where the need for the taking of meals and/or refreshments arises incidental to, and in the normal course of business, between officers, councillors and applicants for planning permission the officers should pay for themselves or if practical, payment should be made by the Council. If a degree of hospitality is entirely unavoidable then the councillor should ensure it is at a minimum, its acceptance is declared as soon as possible and that the interest is to be registered where its value is over £25 (in accordance with the Council's rules on gifts and hospitality).

Planning Gain

- 7.10 Should the issue of planning benefit, agreement or obligation be raised by an applicant or agent (e.g. offers of the provision of community facilities/open space or funding towards such provision through a s106 Planning Obligation or otherwise), the councillors should not enter into any form of negotiation, but should refer the matter to the Head of Planning, Community Safety and Regulatory Services .

Political Group Meetings

- 7.11 Whilst councillors may discuss planning matters in political group meetings before taking a decision at the Planning Committee, such meetings should not be used to decide how councillors should vote.
- 7.12 Councillors have an overriding duty to the whole of the local community and, although they may be strongly influenced by the views of others and particularly their political group, it is their responsibility alone to decide what view to take on any planning matter before the Planning Committee.
- 7.13 When approached by a member of the public on an application that affects the councillor's ward, the councillor should:
- 7.13.1 listen or receive viewpoints from residents or other interested parties;
 - 7.13.2 make comments to residents, interested parties, other councillors or appropriate officers, provided they do not consist of or amount to pre-judging the issue and the councillor makes clear that they are keeping an open mind;
 - 7.13.3 seek information through appropriate channels; or
 - 7.13.4 be a vehicle for the expression of opinion or speaking at the meeting as a ward member, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

Lobbying by councillors

- 7.14 A councillor on a Planning Committee should not become a member of, lead or represent an organisation whose primary purpose is to lobby or oppose planning proposals. If they do they will have fettered their discretion and are likely to have a personal and prejudicial interest.
- 7.15 A councillor on a Planning Committee may, however join general interest groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that the councillor has reserved judgment and the independence to make up their own mind on each separate proposal.

Pre Application Discussions

- 7.16 Councillors should not engage in pre-application discussions without officers being present. All enquiries should be directed to officers. Councillors may request and/or be present at certain meetings relating to requests for pre-application advice, though such advice should be given by officers. Councillors may, however, give procedural advice on how applications are dealt with, without officers being present. Any pre-application meetings not held at the Civic Centre or the application site should only be held at suitable venues and should be fully minuted.

8. **DECISION MAKING PROCEDURES**

- 8.1 Decisions on planning and other applications submitted under the Town & Country Planning Acts (including applications for listed building consent, conservation area consent, consent to display advertisements, prior notifications of agricultural buildings, telecommunications development or demolition, hedgerow removal, certificates of lawful use or development, etc.) are made by three methods in accordance with the Council's approved Scheme of Decision Making:-

8.1.1 by the Head of Planning, Community Safety and Regulatory Services or nominated officers with delegated authorisation from him/her to make decisions on planning applications;

8.1.2 by the Head of Planning, Community Safety and Regulatory Services or nominated officers, after notification to the Chairman and a nominated member of Planning Committee.

8.1.3 by the Planning Committee.

- 8.2 Non-delegated planning applications are determined by the Planning Committee. The dates of all of the meetings are always displayed in the entrance hall area of the Civic Centre.

- 8.3 The Business of the Planning Committee must be conducted in accordance with the current Rules of Procedure-Part 4 of the Council's Constitution, including the on public speaking at Planning Committee set out at 8.6 below and the supplementary procedure rules relating specifically to the Planning Committee at Appendix Two.

- 8.4 Councillors on the Planning Committee should not vote on an application if they arrive late and do not hear the whole application.

- 8.5 The Council has signed up to an "Enforcement Concordat" to ensure that all enforcement matters are dealt with fairly and equitably.

- 8.6 Public speaking is allowed at the Planning Committee, and this also includes applicants, agents, councillors not on the Planning

Committee, Ward Members, supporters and objectors. Speaking time is limited to four minutes for each individual. A document entitled "Public Speaking Procedures at Meetings of the Planning Committee" provides details on this procedure and a copy is attached at Appendix Three.

9. **OFFICER REPORTS TO COMMITTEE**

9.1 Reports will cover the following-

9.1.1 the substance of comments received from people who have been consulted;

9.1.2 a clear explanation of the Development Plan;

9.1.3 the planning history of the site;

9.1.4 relevant material planning considerations; and

9.1.5 a clear written recommendation, justified by an officer's written appraisal;

9.1.6 where the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify the Departure.

9.2 Oral reports to Committee will only be made to update reports and to report late objection letters and consultee responses. On very rare occasions, if officers wish to change the recommendation in the light of information received or to suggest alternative or additional conditions, this will be very carefully minuted.

10 **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

10.1 If the Planning Committee is minded to make a decision contrary to the officer's recommendation (whether for approval or refusal) the officers present at Committee should first be given the opportunity to explain the implications of the contrary decision.

10.2 Whilst councils make extensive use of standard wording for conditions, in the case of any conditions which councillors may wish to add or amend, an officer should be asked to draft any such conditions and refer them for approval by the Head of Planning, Community Safety and Regulatory Services.

11. **COMMITTEE SITE VISITS**

11.1 Requests for Site Visits

11.1.1 All requests for site visits should be made using the appropriate form by 1.00 p.m. on the final working day prior to the Committee meeting;

11.1.2 The Chairman/Vice Chairman, Head of Planning, Community Safety and Regulatory Services and Building and Development Control Manager must be made aware of any requests for site visits;

11.1.3 Reasons for the site visit request must be indicated;

11.2 Criteria for Requesting Site Visits

11.2.1 The “substantial benefit” test should apply in every case. Site visits should only be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs, or if there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or if the proposal is particularly contentious;

11.2.2 Site visits may be triggered by councillors who do not sit on the Planning Committee, but subject to the “substantial benefit” test outlined above. A record of reasons why site visits are called should be kept.

11.2.3 Site visits may be appropriate to consider larger, more complex applications (but usually at officer instigation)

11.2.4 Site visits may be appropriate if it is considered that there is a lack of clarity with the application making visual assessment necessary

11.2.5 Site visits may be necessary if it is considered that there is a need to consider the wider impact on the community

11.3 Site visits must **not** be requested in any of the following cases:

11.3.1 Where there are clear planning policy reasons for refusal which override other material planning considerations

11.3.2 To consider boundary or neighbour disputes solely

11.3.3 To consider objections raised on competition grounds

11.3.4 To consider objections raised on the grounds of loss of property values

- 11.3.5 To consider any other issues which are not material planning considerations
- 11.3.6 Where members of the Committee have already visited a site within the last year, except in exceptional circumstances
- 11.3.7 To consider representations from friends, neighbours or relatives

Timing of Site Visits

11.4 All Committee site visits should be arranged wherever possible no later than the date of the following Planning Committee Meeting

11.5 Procedure at the Committee Meeting

11.5.1 The Chairman should inform the meeting that a request for a site visit has been received, and read out the reason for the request. The Chairman should also enquire of officers whether any additional information has been received or if an explanation can be given which would overcome the need for the site visit.

11.5.2 A vote should then be taken on whether or not councillors should visit the site and this should be recorded in the Minutes

11.5.3 The Committee has the right to refuse a site visit request if it considers that a site visit is not appropriate for the reasons listed at 11.3 above.

11.6. The Building and Development Control Manager, in association with the Democratic Services officers will arrange for all members entitled to attend, to be notified of the date and time of the site visit. Any members of the public who have written to express their views will be notified, together with any relevant consultees.

11.7 Procedure at the Site Visit Meeting

11.7.1 Site visits should be carefully organised to ensure that their purpose, format and conduct are clearly established at the outset and subsequently adhered to throughout the site visit.

11.7.2 The primary purpose of the site visit will be for planning officers to explain the planning issues relating to the case and for councillors to view the site.

11.7.3 The site meeting should be conducted strictly along the same lines as a Planning Inspector's site visit.

- 11.7.4 All site visit meetings will be carefully minuted and a record kept of those present, including any members of the public, applicants, agents, etc.
- 11.7.5 At the commencement of each site visit, particularly where access to private land is required, the attending officer(s), together with the Chairman shall introduce the visiting Planning Committee to the site occupier/owner and explain the purpose of the visit.
- 11.7.6 The meeting should be conducted in the following manner:-
 - 11.7.6.1 The Chairman, or in the absence of the Chairman, the Vice Chairman of the Committee, should open the meeting;
 - 11.7.6.2 The Head of Planning, Community Safety and Regulatory Services or the Building and Development Control Manager, or their representative should describe the application;
 - 11.7.6.3 The requestor and/or proposer of the site visit should explain their concern or interest in the proposal and the particular aspects of the application that has necessitated the site visit
 - 11.7.6.4 Councillors on the Committee may comment or ask questions of the officers in attendance. Clarification and answers should be given wherever practicable
 - 11.7.6.5 The Chairman should close the meeting and explain to those present that the meeting will be reconvened at the Civic Centre to determine the application(s)
 - 11.7.6.6 The Chairman has the right to close the meeting at any point if undisciplined behaviour is displayed by any participants or onlookers

11.8 Conduct of Councillors and others at the Site Meeting

- 11.8.1 The applicant, agent, objectors, consultees and any other members of the public will be allowed to attend. These attendees must only point out any key features of the site that they wish the Committee to take note of.
- 11.8.2 Councillors should not hear representations during the site visit from any of those parties with the exception of any Ward Member(s) whose address must focus only on site features. Where a councillor is approached by the applicant or a third party, the councillor should

advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

- 11.8.3 Councillors must at all times be circumspect in their behaviour and must refrain from expressing any opinions on the merits or otherwise of the case at the site visit. They should remain present for the duration of the site visit, however long it lasts, in order to hear all of the discussion.
- 11.8.4 Councillors should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - 11.8.4.1 If a councillor feels it is essential to visit the site other than through attending the official site visit this should only be undertaken in circumstances where,
 - 11.8.4.2 The councillor has first spoken to the Building and Development Control Manager about their intention to do so and why (which will be recorded on the file) and
 - 11.8.4.3 The councillor can ensure they will comply with these good practice rules on site visits.
 - 11.8.4.4 The councillor should not enter the site which is subject to the proposal but should only view it from a public vantage point.

At the Reconvened Meeting at the Civic Centre

- 11.9 The Committee's business shall be conducted in accordance with the Council's Constitution.

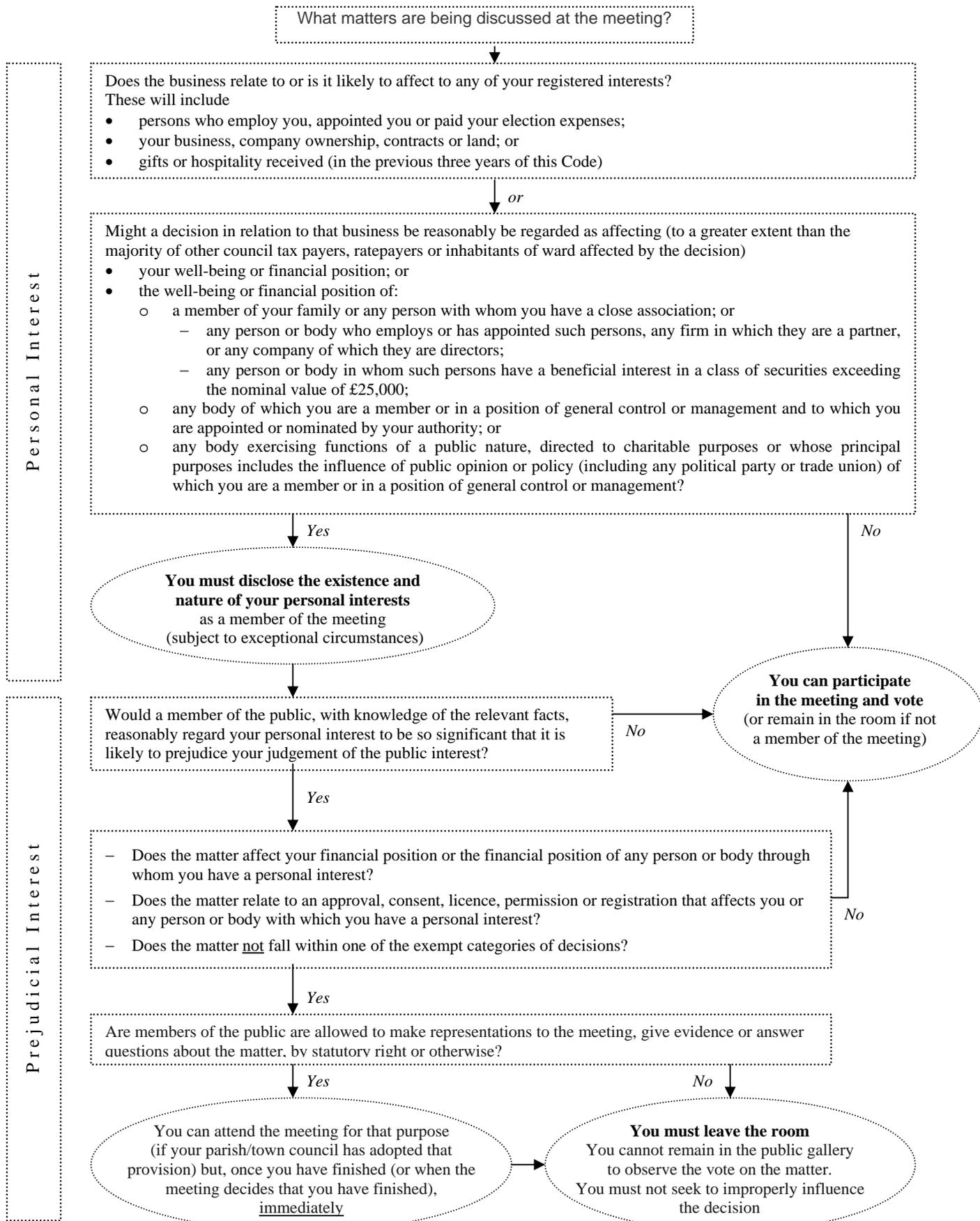
12. **COMPLAINTS AND SANCTIONS**

- 12.1 The Council operates its own local complaints system, which can be used if members of the public consider this code has not been followed.
- 12.2 Complaints by officers and councillors regarding a breach of this Code should be made to the Head of Legal and Member Services.
- 12.3 Breaches of this Code may be investigated and regarded as maladministration by the Local Ombudsman.
- 12.4 Breaches by councillors may be referred to the Council's Standards Committee for local assessment and subsequently may be referred to and investigated by the Standards Board for England.

- 12.5 Breaches of the RTPI Code of Conduct by Officers who are members of the RTPI can also be reported to the Royal Town Planning Institute, 26 Portland Place, London W1N 4NBE.
- 12.6 An applicant who has been refused planning permission or a person served with an enforcement notice etc has a right of appeal to the Secretary of State. If an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable, the appellant's costs may be awarded against the Council. This may also result in the Council's External Auditor issuing a Public Interest report which the Council would be required to publish criticising Councillors concerned for failing to act properly in their stewardship of public funds.
- 12.7 If objectors believe that the Council, in determining to grant an application, did not observe their statutory obligations to carry out all necessary procedures, base their decision on the Development Plan and take into account all representations, they may apply for judicial review of the decision, which might result in it being quashed. In such circumstances it would be normal for the cost of the applicant to be awarded against the Council.
- 12.8 The Secretary of State possesses a range of powers which could be exercised where a local planning authority appears to be making inconsistent decisions, or decisions which are seriously in conflict with national and development plan policies. This could involve a greater use of the power to "call-in" applications, whereby an application would be determined by him/her following a public inquiry. Where permission has already been granted by the Council, powers exist to revoke or modify permissions, or to require discontinuance of a land use, which if exercised, would give rise to a liability to compensate on the part of the Council. The amount of compensation may be considerable.

APPENDIX ONE

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



APPENDIX TWO

PLANNING COMMITTEE SUPPLEMENTARY PROCEDURE RULES

- Chairman introduces item
- Officer presents report and updates Committee on any information received after report prepared
- Speaker(s) in opposition to application may address Committee
- Committee ask questions of Speaker(s)
- Speakers in favour of application may address Committee
- Committee ask questions of Speaker(s)
- Ward Member may address Committee
- Councillors make comments and ask questions of officers
- Proposal moved by a councillor
- Proposal seconded by a councillor
- Debate as required
- Vote
- Chairman confirms decision of Committee.
- Where a motion to grant or refuse permission is rejected the following rules apply
 - A detailed minute of the Committee's reasons should be made and a copy placed on the application file, as well as the Committee Minutes. The reasons should be clear and convincing and should be planning reasons. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, a dwelling for an agricultural worker.

APPENDIX 3

PUBLIC SPEAKING PROCEDURES AT MEETINGS OF THE PLANNING COMMITTEE

Introduction

The purpose of public speaking at Planning Committee is to enable people to make their views directly on development proposals other than just by letter. This leaflet has been prepared by the Council to provide those who wish to address the Committee with helpful advice on how the procedures operate. All matters of procedure during the meeting will be at the discretion of the Chairman of the Planning Committee.

Who can speak?

You can speak if you are:

- An applicant.
- An individual (or representative of a company) who has commented on an application.
- An agent acting for an applicant (but only where the applicant does not wish to speak).

What am I allowed to say?

The Council must decide applications according to the relevant planning policies and other material considerations. Examples of the sort of factors which can be taken into account include:

- Noise and disturbance
- Highway safety and traffic issues
- A building which is of poor design
- Loss of light caused by new building

Considerations which cannot affect the way an application is decided include:

- A loss of view
- A reduction in the value of a property
- Business competition
- Inconvenience during construction work
- Private property rights (e.g. boundary disputes)

The above lists are not exhaustive.

Who sits on the Committee and who attends the meeting?

The Planning Committee is comprised of 15 elected Councillors representing different parts of the district. A Chairman is in charge of the business of the meeting. The minutes of the meeting will be taken by a Democratic Services Officer who will also manage the time allowed for speaking. A Legal Officer and normally two Planning Officers will also be in attendance. All meetings are open to the press and public so anyone can attend and listen to the proceedings.

What is the order of the business at the meeting?

Although the agenda is published prior to the meeting, applications with speakers may be taken first.

What is the order of speaking on each application?

- The Chairman will announce each application in turn.
- A planning officer will make appropriate introductory comments.
- The order of speakers will be the applicant followed by any other interested parties.

What do I have to do if I want to speak?

Anyone wishing to speak needs to notify a Democratic Services Officer at the Council by 5.00pm at least two working days before the meeting to register the request. The notification must be either in writing, facsimile or e-mail (see details under further information). Requests to speak which are late will not be granted and telephone requests cannot be accepted. The use of visual aids is not permitted and copies of speakers comments, additional written information or photographs cannot be circulated at the meeting.

How many speakers are allowed?

The applicant/agent, supporters and objectors will be sent a written invitation to register their request to speak. Although you may submit a request to speak at Committee, a maximum of two speakers in support and two speakers against will be able to present their view. The invitation will contain a list of all other supporters or objectors (as appropriate) and advises that those wishing to speak should liaise with each other to agree appropriate speakers. If more than 2 people formally request to speak, speakers will be selected in order of receipt. Those unsuccessful will be notified by telephone and given details of those selected to speak.

NB. In relation to the submission of organised objections, such as by means of a petition, one spokesperson should speak for all, subject to there being a maximum of 2 speakers as described above.

How much time will I have?

Each speaker will have 4 minutes. You will be timed by a Democratic Services Officer who will give you a reminder 30 seconds before the end of the 4 minutes.

Will I be asked questions?

Members of the Committee may ask questions to clarify points that you have made. Your comments should be made as statements. Neither Councillors nor officers will discuss the issues with you.

What happens if a decision is deferred?

Applications will not be deferred because of the absence of any person who has expressed a wish to speak. However, they may be deferred for reasons such as the need for further information or a committee site visit. If an application is deferred for a site visit you will not be able to speak on site other than to point out things that they wish members to see or to answer any queries members may have.

Conduct

Speakers will be expected to conduct themselves in an orderly manner and concern themselves only with planning issues.

Further Information

To register your wish to speak please either confirm by letter, return the slip attached to my letter to you or notify a Democratic Services Officer at the District Council by means of the following facsimile number or e-mail address.

Fax: 01623 463900

E-mail: pca@mansfield.gov.uk

Note:

A ward Councillor who is not a member of the Planning Committee can speak at the meeting, and other Councillors can speak with the Chairman's permission. There is no specific limit on the time allowed for these Councillors to speak as they represent the wider community.