



## **BROMSGROVE DISTRICT COUNCIL**

**YOU ARE HEREBY SUMMONED to attend a MEETING of BROMSGROVE DISTRICT COUNCIL to be held in the Council Chamber at The Council House, Burcot Lane, Bromsgrove at 6.00 p.m. on Wednesday 18th April 2012, when the business referred to below will be brought under consideration:-**

**The formal business will be preceded by a prayer**

**1. To receive apologies for absence**

**2. Declarations of Interest**

*(Members are reminded that they need to keep their register of interest forms up to date)*

**3. To confirm the accuracy of the minutes of the meeting of the Council held on 14th March 2012 (Pages 1 - 6)**

**4. To receive any announcements from the Chairman, the Civic Head or the Head of Paid Service**

**5. To receive any announcements from the Leader**

**6. To receive the minutes of the meetings of the Cabinet held on 7th March and 4th April 2012 (Pages 7 - 18)**

**7. Constitution Changes (Pages 19 - 34)**

To consider the report of the Head of Legal, Equalities and Democratic Services

**8. Questions on Notice**

To deal with any questions on notice from Members of the Council, in the order in which they have been received.

9. **Motion - Austin Road**

To consider the following motion submitted by Councillor S. P. Shannon:-

“Propose that this authority takes action to hasten the adoption process in relation to Austin Road, a road constructed by the Council but has never been incorporated into the recognised highways system.”

K. DICKS  
Chief Executive

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

TO ALL MEMBERS OF THE BROMSGROVE DISTRICT COUNCIL

## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE COUNCIL**

**WEDNESDAY, 14TH MARCH 2012 AT 6.00 P.M.**

PRESENT: Councillors Mrs. J. M. L. A. Griffiths (Chairman), R. J. Laight (Vice-Chairman), Mrs. S. J. Baxter, C. J. Bloore, Dr. D. W. P. Booth JP, Mrs. J. M. Boswell, J. R. Boulter, J. S. Brogan, M. A. Bullivant, Ms. M. T. Buxton, R. A. Clarke, S. R. Colella, Dr. B. T. Cooper, R. J. Deeming, Mrs. R. L. Dent, S. J. Dudley, K. A. Grant-Pearce, Miss P. A. Harrison, R. Hollingworth, Mrs. H. J. Jones, P. Lammas, B. Lewis F.CMI, L. C. R. Mallett, Mrs. C. M. McDonald, P. M. McDonald, E. J. Murray, J. A. Ruck, C. R. Scurrrell, R. J. Shannon, S. P. Shannon, Mrs. M. A. Sherrey JP, C. B. Taylor, C. J. Tidmarsh, L. J. Turner, M. J. A. Webb and C. J. K. Wilson

#### 105/11 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mrs. E. M. Shannon and Mrs. C. J. Spencer.

#### 106/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

#### 107/11 **MINUTES**

The minutes of the Extraordinary Meeting of the Council held on 22nd February 2012 were submitted.

**RESOLVED** that the minutes be approved as a correct record.

#### 108/11 **ANNOUNCEMENTS FROM THE CHAIRMAN, THE CIVIC HEAD OR THE HEAD OF PAID SERVICE**

There were no announcements.

#### 109/11 **ANNOUNCEMENTS FROM THE LEADER**

There were no announcements.

110/11 **RECOMMENDATIONS FROM THE CABINET**

**FINANCIAL MONITORING REPORT - QUARTER 3 2011/12**

The recommendations from the Cabinet were moved by Councillor R. Hollingworth and seconded by Councillor Mrs. M. A. Sherrey.

**RESOLVED:**

- (a) that the increase to the 2012/13 Capital Programme of £659,000 in respect of the schemes carried forward from the 2011/12 Capital Programme, as set out in Appendix 3 to the report, be approved; and
- (b) that the increase to the 2012/13 Capital Programme of £12,000 (to be funded from revenue underspend) in respect of GIS software be approved.

111/11 **MINUTES OF THE MEETINGS OF THE CABINET HELD ON 1ST FEBRUARY AND 22ND FEBRUARY 2012**

The minutes of the meetings of the Cabinet held on 1st February and 22nd February 2012 were received for information.

112/11 **CONSTITUTION CHANGES**

A report of the Head of Legal, Equalities and Democratic Services on proposed changes to the Council's Constitution had been circulated with the agenda for the meeting.

Subsequent discussions had taken place between Councillor R. Hollingworth, Leader of the Council and Councillor P. M. McDonald, Leader of the Labour Group and, as a consequence, supplementary papers were tabled which included a summary of proposed changes which had been agreed by the two Leaders (Table 1), a summary of proposed changes which had not been agreed (Table 2), together with the relevant sections of the Constitution which showed the proposed agreed changes.

The proposed changes set out in Table 1 were moved by Councillor M. A. Bullivant and seconded by Councillor Dr. D. W. P. Booth.

At the request of Councillor P. M. McDonald and with the consent of Councillor R. Hollingworth, it was agreed that item 4 in Table 1 (Part 4 Council Procedure Rules Para 11.1) be deferred for further consideration. Arising from comments made by Councillor C. B. Taylor with regard to Item 2 in Table 1 (Part 20 Code of Practice – Planning Services), it was agreed that these proposed changes be deferred for further consideration and that both deferred items be reported back to the next meeting of the full Council on 18th April 2012.

Having been put to the vote, it was

**RESOLVED** that approval be given to the proposed changes to the Constitution as set out in items 1, 3, 5, 6, 7 and 8 of Table 1 and summarised in the Appendix to these minutes.

The proposed changes set out in Table 2 as indicated below were moved by Councillor P. M. McDonald and seconded by Councillor L. C. R. Mallett.

Number	Section of Constitution	Reference in report	Nature of amendment proposed
1	Part 4 Council Procedure Rules Para 11.6	3.10 b (page 24)	Notice of Motions - 11.6 sets out the grounds on which a Notice of Motion may be rejected. Proposal is to remove the reference to rejecting a Notice of Motion if it is not of a "strategic nature".
2	Part 4 Council Procedure Rules Para 11.12	3.10 d (page 24)	The time limit for debating Notices of Motion is currently one hour. Proposal is to extend this to two hours.
3	Part 8 Overview and Scrutiny Procedure Rules Para 6	3.8 (page 23)	Rules re chairing of Overview and Scrutiny Board. Proposal is to add a requirement at para 6 of Part 8 that the Chairman of Overview and Scrutiny must be a member of the largest non - controlling group.

An amendment was moved by Councillor Mrs. S. J. Baxter and seconded by Councillor L. J. Turner that, with regard to item 3, the proposed wording "that the Chairman of Overview and Scrutiny must be a member of the largest non-controlling group" be changed to "that the Chairman of Overview and Scrutiny will wherever possible be a member of the largest non-controlling group."

Having been put to the vote the Chairman declared the amendment to be lost.

The proposed changes set out in Table 2 were then put to the vote, with each of the three items subject to a separate vote. The Chairman declared each vote to be lost.

113/11 **QUESTIONS ON NOTICE**

There were no questions on notice.

114/11 **MOTION - CALL FOR THE LEADER TO RESIGN**

Members considered the following motion submitted by Councillor P. M. McDonald.

"In view of this Council's continuing unsatisfactory performance in the provision of services; the spiralling employee costs; £millions spent on the merger with Redditch Borough Council; the £half a million costs of the heads of service who only work two and a half days a week; the debacle of the Marlbrook Tip that has become an environmental disaster through Council

negligence; and the incompetent management of the ALDI site, the Labour Group calls upon the leader of the Council to resign."

The motion was moved by Councillor P. M. McDonald and seconded by Councillor C. J. Bloore.

Following a response by Councillor R. Hollingworth, a procedural motion was moved by Councillor Mrs. M. A. Sherrey and seconded by Councillor M. A. Bullivant that the matter be now put to the vote. Having put the procedural motion to the vote, the Chairman declared it to be carried.

Following a right of reply by Councillor P. M. McDonald as the mover of the substantive motion, on a requisition under Council Procedure Rule 17.5, the following details of voting on the motion were recorded:

For the motion: Councillors C. J. Bloore, Ms. M. T. Buxton, L. C. R. Mallett, Mrs. C. M. McDonald, P. M. McDonald, E. J. Murray, R. J. Shannon, S. P. Shannon and C. J. K. Wilson (9);

Against the motion: Councillors Mrs. S. J. Baxter, Dr. D. W. P. Booth, Mrs. J. M. Boswell, J. R. Boulter, J. S. Brogan, M. A. Bullivant, R. A. Clarke, S. R. Colella, Dr. B. T. Cooper, R. J. Deeming, Mrs. R. L. Dent, S. J. Dudley, K. A. Grant-Pierce, Miss P. A. Harrison, R. Hollingworth, Mrs. H. J. Jones, R. J. Laight, P. Lammas, B. Lewis, J. A. Ruck, C. R. Scurrrell, Mrs. M. A. Sherrey, C. B. Taylor, C. J. Tidmarsh, L. J. Turner and M. J. A. Webb (26);

Abstentions: 0

Accordingly, the Chairman declared the motion to be LOST.

The meeting closed at 7.10 p.m.

Chairman

**CONSTITUTION REPORT****TABLE 1: CHANGES AGREED**

<b>Number</b>	<b>Section of Constitution</b>	<b>Reference in report</b>	<b>Nature of amendment proposed</b>
1	Part 10 Planning Procedure Rules Paras 8.1 to 8.9	3.5 (page 22)	Rules around public speaking at Planning Committee. Agreed amendments shown in track changes on updated Appendix 1 tabled at the meeting.
3	Part 8 Overview and Scrutiny Procedure Rules and Part 9 Audit Procedure Rules	3.7 (page 23)	That the ability to have substitutes be introduced to Overview and Scrutiny Board meetings and Audit Board meetings. Each board member will be able to appoint a substitute to attend on his/her behalf limited to no more than two meetings in any municipal year. Agreed wording attached at revised Appendix 3 tabled at the meeting.
5	Part 4 Council Procedure Rules Para 11.8	3.10 c	Referral of Motions – amendment to para 11.8 to clarify that this clause will only be used to allow Notices of Motion to be referred to Cabinet or another committee following a decision made by the relevant parties in advance of a meeting, save that the Chairman retains the discretion to allow a proposal to amend/alter a Notice of a Motion to make such a referral if circumstances warranting referral to another committee or person arise during the course of a meeting when the Motion is debated.
6	Part 4 Council Procedure Rules Para 13.6 (a) (i) and 13.7 (a) (i)	3.10 e	Leading on from number 5 above, amendments to 13.6 (a) (i) and 13.7 (a) (i) to cover the situation where the Chairman use his/her discretion to allow an amendment or alteration to a motion to refer it to another Committee or person.

<b>Number</b>	<b>Section of Constitution</b>	<b>Reference in report</b>	<b>Nature of amendment proposed</b>
7	Part 4 Council Procedure Rules Para 13.10 (d)	3.10 f	Motions which may be moved during the debate – amendment to 13.10 (d) to clarify that a procedural motion that the question be now put to the vote may only be put by a Member who has not already spoken in the debate.
8	Part 20 – Appendix 1 Member Protocol for Involvement in Pre-Application Discussions	Not included in original report	That the pre application protocol currently operating as part of the planning process be suspended by the Council forthwith pending a review thereof by the Leader of the Council and the Leader of the Labour Group in conjunction with officers and the Chairman of the Planning Committee and a report to the Planning Committee on an agreed way forward.



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE CABINET**

**WEDNESDAY, 7TH MARCH 2012 AT 6.00 P.M.**

PRESENT: Councillors Mrs. M. A. Sherrey JP (Deputy Leader in the Chair),  
Dr. D. W. P. Booth JP, M. A. Bullivant, C. B. Taylor and M. J. A. Webb

Observers: Councillor P. M. McDonald

Officers: Ms. S. Hanley, Ms. J. Pickering, Ms. J. Willis, Mrs. S. Sellers,  
Ms. R. McAndrews and Ms. R. Cole.

119/11 **APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor R. Hollingworth.

120/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

121/11 **REFERRAL FROM THE COUNCIL - CCTV MOTION**

Councillor P. M. McDonald spoke in support of the motion referred from Council which called upon the Council to cease the monitoring of CCTV coverage outside Bromsgrove and Redditch and to give due notice to those it may concern. Councillor McDonald referred to the possibility that a greater number of cameras lessened the ability of the operators to maintain full coverage.

An officer report in connection to the motion was considered. The report set out the basis on which CCTV cameras were operated on behalf of Wyre Forest District Council under a Service Level Agreement (SLA) (which was due to expire in April 2012) and the implications if the SLA was not renewed.

Following discussion it was

**RESOLVED:**

- (a) that this Council continues to provide CCTV services outside Bromsgrove and Redditch, subject to suitable agreements being in place; and
- (b) that the existing SLA with Wyre Forest District Council which will expire in April 2012 be renegotiated.

122/11 **MINUTES**

The minutes of the meetings of the Cabinet held on 1st February 2012 and 22nd February 2012 were submitted.

**RESOLVED** that the minutes be confirmed as a correct record in each case.

123/11 **AUDIT BOARD**

The minutes of the meeting of the Audit Board held on 2nd February 2012 were submitted.

**RESOLVED** that the minutes be noted.

124/11 **VERBAL UPDATES FROM THE LEADER AND/OR OTHER CABINET MEMBERS ON ANY RECENT MEETINGS ATTENDED IN AN EX-OFFICIO CAPACITY**

Councillor C. B. Taylor reported that he had recently attended an Awards Evening at The Artrix.

The meeting closed at 6.12 p.m.

Chairman

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE CABINET**

**WEDNESDAY, 4TH APRIL 2012 AT 6.00 P.M.**

PRESENT: Councillors R. Hollingworth (Leader), Mrs. M. A. Sherrey JP (Deputy Leader), Dr. D. W. P. Booth JP, M. A. Bullivant, C. B. Taylor and M. J. A. Webb

Invitees: Councillor S. R. Colella

Officers: Ms. S. Hanley, Ms. A. Heighway, Ms. C. Flanagan, Mr. M. Dunphy, Mr. D. Thomas and Ms. R. Cole.

125/11 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

126/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

127/11 **MINUTES**

The minutes of the meeting of Cabinet held on 7th March 2012 were submitted.

**RESOLVED** that the minutes be approved as a correct record.

128/11 **LANGBRIDGE - STATEMENT OF PRINCIPLES REGARDING AFFORDABLE HOUSING PROVISION**

The Cabinet considered a report on the proposal to adopt a jointly agreed Statement of Principles regarding the provision of affordable housing on Longbridge development sites.

It was reported that the Statement of Principles was designed to guide the approach of this Council and Birmingham City Council throughout the regeneration of Longbridge sites in respect of the provision of affordable housing.

During consideration of this item the Cabinet also took into account the recommendation of the Overview and Scrutiny Board as contained in minute 106/11 of the meeting of the Board held on 26th March 2012.

The Board had recommended that the Cabinet defer the approval of the Statement of Principles pending the submission of a more detailed report to

the Overview and Scrutiny Board on a number of areas contained within the Statement of Principles to enable the Board to contribute to the decision making process.

The Cabinet felt it was appropriate for the Overview and Scrutiny Board to consider the contents of the Statement of Principles in more detail. The Cabinet were concerned however that this may result in this Authority losing the 50% nomination rights (as referred to in item 6 in the Statement of Principles) to dwellings in respect of the development on the Birmingham City Council site at Lickey Road/Lowhill Lane.

**RESOLVED:**

- (a) that further consideration of the Longbridge Statement of Principles Regarding Affordable Housing Provision be deferred to enable the Overview and Scrutiny Board to consider the issue in more detail; and
- (b) that in the meantime the Council accept their 50% nomination rights to dwellings on the Lickey Road/Lowhill Lane development.

129/11 **OVERVIEW AND SCRUTINY BOARD**

The minutes of the meetings of the Overview and Scrutiny Board held on 27th February 2012 and 26th March 2012 were submitted.

**Minutes of the meeting held on 27th February 2012**

**RESOLVED** that the minutes be noted.

**Minutes of the meeting held on 26th March 2012**

**RESOLVED:**

- (a) that the recommendation contained in minute 106/11 relating to the Longbridge Statement of Principles be approved; and
- (b) that the remainder of the minutes be noted.

130/11 **BROMSGROVE TOWN CENTRE TOWNSCAPE HERITAGE INITIATIVE - SECOND ROUND SUBMISSION**

Consideration was given to a report on the second round submission to the Heritage Lottery Fund (HLF) in respect of a Townscape Heritage Initiative (THI) in Bromsgrove Town Centre Conservation Area. Members were reminded that in April 2010 the Council was provisionally awarded £1.2m from the HLF for this purpose.

It was noted that the second round submission provided much clearer detail on the Conservation Area, the issues to be faced and the management of those issues. In addition, detail was required on how the funding would be used in order to add lasting improvements and historic value to the area.

Members' attention was drawn to both the bid document itself and the Conservation Area Appraisal and Management Plan which had both been the subject of a period of public consultation. Responses received had been taken into consideration when compiling the final content of the bid document.

The Cabinet acknowledged the extensive work undertaken by officers in drawing up what was felt to be an impressive bid.

**RESOLVED:**

- (a) that subject to any final recommendation from the HLF monitor (to be approved by the Executive Director Planning and Regeneration, Regulatory and Housing Services), the Bromsgrove Town Centre THI second round bid be approved for submission to HLF for consideration; and
- (b) that the Bromsgrove Town Centre Conservation Area Appraisal and Management Plan be adopted as a material consideration for planning purposes.

131/11 **SHARED SERVICES BOARD**

The minutes of the meetings of the Shared Services Board held on 26th January 2012 and 8th March 2012 were submitted.

**RESOLVED** that the minutes be noted in each case.

132/11 **WORCESTERSHIRE SHARED SERVICES JOINT COMMITTEE**

The minutes of the meeting of the Worcestershire Shared Services Committee held on 23rd February 2012 were submitted.

**RESOLVED** that the minutes be noted.

133/11 **OVERVIEW AND SCRUTINY TASK GROUP PLANNING POLICY REPORT**

The Leader invited the Chairman of the Planning Policy Task Group Councillor S. R. Colella to introduce the report of the Task Group on the review of Planning Policy.

Councillor Colella explained that the Task Group had been set up to investigate the effectiveness of planning conditions and the enforcement of breaches of these conditions. The role of the Task Group had been to use existing case studies to look at the effectiveness of planning conditions and the Council's Enforcement Policy and to suggest where improvements could be made.

Councillor Colella thanked the Members of the Task Group for their work which he felt had resulted in a robust and detailed investigation. In addition thanks were expressed to officers for their assistance to the Task Group and

for their open approach and willingness to recognise where services could be improved. The Task Group had recognised that some improvements were already in place. Thanks were also expressed to the members of the public who had participated in the process.

The Cabinet then considered the recommendations of the Task Group in detail and sought clarification of some issues from Councillor Colella.

As the Cabinet's response to some of the Task Group's recommendations would require further consideration from the Overview and Scrutiny Board, it was felt appropriate to defer a final Cabinet response to the Task Group report until the Board had had the opportunity to consider these issues further.

The Leader thanked Councillor Colella and the other Members of the Task Group for their work to date which had resulted in some very good recommendations. The Leader also thanked Ms. A. Scarce, Democratic Services Officer for her work in supporting the Task Group.

**RESOLVED** that the response to each of the recommendations within the report of the Planning Policy Task Group be as set out below:

**Recommendation 1**

That a mechanism be put in place to ensure that :

- (a) where conditions cannot be monitored within existing resources, an estimate of the resources required to monitor those conditions be clearly identified ;
- (b) the applicant be made aware at the earliest possible stage of the need to ensure that these conditions are adhered to and properly monitored in line with the conditions applied; and
- (c) where the planning officer recommends refusal of a planning application and the Planning Committee go against the recommendation, sufficient time should be given within the Planning Committee Meeting to discuss conditions.

**Cabinet Response**

- (a) there was concern that it may often be difficult to decide what additional resources would be appropriate and therefore to estimate that cost. In addition, whilst an estimate may be made the Council may not then have the resources to meet that cost. It was therefore felt that that this part of the recommendation should be referred back to the Overview and Scrutiny Board for further consideration;
- (b) this was agreed;
- (c) this was agreed;

**Recommendation 2**

- (a) that a review of the Bromsgrove Standard Planning Conditions be carried out as soon as practicably possible, but within six months of this report being presented to the Cabinet; and
- (b) that Planning officer training be formalised to ensure appropriate conditions are identified for routine and non-routine applications.

**Cabinet Response**

- (a) this was agreed; and
- (b) this was agreed but in addition it was felt that a suitable level of Member training in this regard should also be undertaken to assist Members in understanding the appropriateness of conditions.

**Recommendation 3**

That monitoring groups are not used in the future. However it is recognised that on occasion there may need to be some form of community engagement for larger more complex planning applications.

**Cabinet Response**

It was felt that there may be a place for monitoring groups in some circumstances and that in the past confusion had been caused because of the lack of proper terms of reference and reporting lines. This recommendation was therefore referred back to the Overview and Scrutiny Board with a request that consideration be given as to how any future monitoring group could be set up to work more effectively.

**Recommendation 4**

That a detailed review of the Planning Enforcement Policy, which was adopted in April 2011 (as encouraged in Section 8 – Conclusion), be carried out giving particular attention to Sections 4 – Enforcement Procedures (Informal) and 7 – Council's Commitment to Complainants.

**Cabinet Response**

This was agreed.

**Recommendation 5**

That a case officer be appointed and remain responsible as the point of contact for each enforcement case to ensure continuity and an electronic case file be set up and open to view by colleagues and management.

**Cabinet Response**

This was agreed.

**Recommendation 6**

That a mechanism be put in place in order for control systems to be developed to ensure enforcement cases are recorded and available upon request to Ward Members.

**Cabinet Response**

It was queried whether this information was already available and what advantage there would be in establishing a further mechanism. This recommendation was therefore referred back to the Overview and Scrutiny Board for further consideration.

**Recommendation 7**

That the Planning Committee receives a quarterly report in respect of all new and outstanding planning enforcement cases.

**Cabinet Response**

This was agreed.

**Recommendation 8**

That thorough the Transformation programme a review and mapping exercise be carried out in respect of the process post planning application approval stage and that the results of this be shared with the Overview and Scrutiny Board.

**Cabinet Response**

This was agreed.

**Recommendation 9**

That the Internal Audit Report recommendations be supported and included within the Overview and Scrutiny Board's Quarterly Recommendation Tracker report to ensure that progress on the implementation is monitored in an appropriate and timely manner.

**Cabinet Response**

This was agreed.



### **Recommendation 10**

That a quarterly report be made available to the Overview and Scrutiny Board to enable Members and officers to be aware of repeat or common themed compliments and complaints (in order to address such complaints).

### **Cabinet Response**

This was agreed

### **Recommendation 11**

That all Heads of Service ensure mechanisms are in place to ensure that when a service request escalates to the extent that there is or could be a critical failure of any nature, they are immediately made aware of the situation and

- (a) that Heads of Service ensure all staff are made aware of and understand the definitions of a complaint; and
- (b) that the Head of Customer Service provides additional guidance in respect of recording service requests which may also be a valid complaint.

### **Cabinet Response**

This was agreed.

### **Recommendation 12**

That the Head of Customer Service and Human Resources work together to establish a mandatory management training programme to:

- (a) ensure that all managers of the Council are given support to enable them to respond, both verbally and in writing, to all customers in a timely and appropriate manner, with regular reviews of the success of such training carried out; and
- (b) ensure that the Overview and Scrutiny Board receive regular updates to ensure this has been implemented.

### **Cabinet Response**

This was agreed.

### 134/11 **VERBAL UPDATES FROM THE LEADER AND/OR OTHER CABINET MEMBERS ON ANY RECENT MEETINGS ATTENDED IN AN EX-OFFICIO CAPACITY**

The Leader reported that he had attended an event at NewStart.

Councillor Mrs M. A. Sherrey reported that she had attended a meeting of the Health and Well Being Board.

135/11 **WORCESTERSHIRE EXTRA CARE HOUSING STRATEGY 2011**

Consideration was given to a report on the Worcestershire Extra Care Housing Strategy 2011-2026 which had been developed by the District Councils in Worcestershire together with the County Council. The Strategy was intended to provide a framework for the future development of Extra Care Housing in Worcestershire for the period 2011 to 2026.

It was reported that the Strategy identified Local Authorities as having a leading role in developing Extra Care Housing by encouraging providers from the social, charitable and private sectors to deliver the Extra Care Housing required in Worcestershire.

The Head of Community Services reported that it was intended that an Action Plan for delivery of the Strategy would be developed in respect of the Bromsgrove District by the Council's officers.

Members supported the Strategy but requested additional clarification on the definition of "Extra Care Housing".

**RESOLVED** that the Worcestershire Extra Care Housing Strategy 2011 – 2026 be approved in principle, subject to the Leader and Portfolio Holder for Strategic Housing being satisfied with the definition of the term "Extra Care Housing".

136/11 **PERFORMANCE MONITORING QUARTER 3 2011/12**

The Cabinet considered a report on the Council's corporate performance for the period ending 31st December 2011.

It was noted that of the 15 remaining indicators, performance had improved in respect of 8 indicators and had declined in respect of 7 indicators since the same period the previous year.

Members noted a number of areas of improvement including the reduction in new Benefits Claims processing time and the increase in usage of the Artrix. The main area of concern, the number of households living in temporary accommodation was also noted although Cabinet were aware that a strategy had been developed to address this as far as possible.

The Deputy Chief Executive referred briefly to the further changes which would evolve in respect of performance reporting as Departments developed "measures" and Transformation work proceeded.

**RESOLVED** that the updated information on key performance indicators for the period ended 31st December 2011 be noted.

137/11 **LOCAL GOVERNMENT ACT 1972**

That under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the item of business the subject of the following minute on the grounds that it involves the likely disclosure of "Exempt Information" as defined in Part 1 of Schedule 12A to the Act the relevant paragraphs of that part being as set out below and that it is in the public interest to do so.

<u>Minute No</u>	<u>Paragraph</u>
138/11	3

138/11 **MARKETING EXERCISE - INCLUSION OF COUNCIL OWNED ASSETS (HANOVER STREET CAR PARK, GEORGE HOUSE AND STOURBRIDGE ROAD CAR PARK)**

The Cabinet considered a report on the possible inclusion of Council owned assets at Hanover Street Car Park, George House and Stourbridge Road Car Park in marketing exercises.

Following discussion it was

**RESOLVED:**

- (a) that the incorporation of Council owned assets at the Hanover Street Car Park and George House site and the Stourbridge Road Car Park in marketing exercises be approved and that the marketing be carried out by Commercial Property Consultant John Dillon; and
- (b) that authority to sign the agreement in respect of the marketing exercises be delegated to the Regeneration Programme Manger.

The meeting closed at 8.00 p.m.

Chairman

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## **Council**

**18th April 2012**

### **CONSTITUTION CHANGES**

Relevant Portfolio Holder	Councillor M. A. Bullivant, Portfolio Holder for Policy, Performance, Communications, Customer Services, Legal, Equalities, Democratic Services and Human Resources
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Wards Affected	All
Ward Councillor Consulted	
Non-Key Decision	

#### **1. SUMMARY OF PROPOSALS**

- 1.1 Council is asked to approve the amendments to the Constitution outlined in this report.

#### **2. RECOMMENDATIONS**

**It is recommended that:**

- 2.1 **Council considers and approves the proposed amendments of the Constitution as referred to in the Appendices to this report in relation to the following issues:**

- (a) Planning Code of Practice**
- (b) Council Procedure Rules**

#### **3. KEY ISSUES**

##### **Financial Implications**

- 3.1 There are no direct financial implications arising from this report.

##### **Legal Implications**

- 3.2 Review and Revision of the Constitution is governed by Article 15 of the Constitution.

**Service / Operational Implications**

- 3.3 The Constitution is a working document which is regularly amended and updated to reflect changes to the way in which the Council operates and carries out its functions.
- 3.4 At the meeting of the Full Council in March 2012 it was agreed that various aspects of the constitution be considered and agreed by the Group Leaders and submitted as agreed changes to the meeting of the Full Council in April for approval.
- 3.5 Members are advised that those items were in relation to Planning site visits and the process for managing Motions on Notice.
- 3.6 Members are advised that following a meeting between the Leader and the Deputy leader of the Labour Group it has been agreed that the changes to the process for planning site visits should be as set out in the report to members at the meeting in March and as appended to this report at appendix 1.
- 3.7 The leaders discussed the amendment proposed at the March meeting in relation to 'otherwise delegated' planning decisions that were determined by the Planning Committee as a consequence of the applicant either being an officer of the Council or an Elected member of the Council and it was agreed that for the purposes of openness and transparency that these applications should follow the same process as all other applications determined by the planning committee and that they would therefore require a site visit.
- 3..8 Members are advised that a process has been agreed between the leader and the Deputy Leady of the Labour Group for receiving and debating Motions on Notice and that as a result the time limit for receiving Motions on Notice has now changed from being the twelfth calendar day before the meeting to being the 7<sup>th</sup> calendar day before the meeting. In addition it has been agreed that in future where Motions on Notice rely upon factual and statistical information that the supporting information be submitted together with the motion in accordance with the timetable agreed and detailed above. See Appendix 2.
- 3.9 This will see a change to the format of the Council agenda as the deadline is later than that of agenda publications. As a result the agenda will now have an item referring to Motions on Notice in the same way that it currently has an item referring to Questions on Notice and there will be a printed form of the Motion tabled on the night of the meeting. In addition the Monitoring Officer will circulate those received in accordance with the above to Group Leaders in advance of the

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meeting and there will be a web link available for all Councillors and members of the public to access in advance of the meeting.

### **Customer / Equalities and Diversity Implications**

- 3.10 The recommendations will have minimal impact on internal/external customers. No Equality and Diversity implications have been identified.

## **4. RISK MANAGEMENT**

- 4.1 The main risks associated with the details included in this report are failure to comply with governance requirements which may expose the Council to the risk of challenge by way of judicial review or appeal which may result in awards of damages and costs against the Council and loss of reputation

## **5. APPENDICES**

Appendix 1 Revised Code of Practice – Planning Services (Part 20)  
Appendix 2 Council Procedure Rules

## **6. BACKGROUND PAPERS**

Council's Constitution

## **7. KEY**

N/A

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CODE OF PRACTICE - PLANNING SERVICES

**1. INTRODUCTION**

- 1.1 The role of a Member serving on the Planning Committee involves balancing the representation of the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals.
- 1.2 This document has been prepared to guide Members and Officers in dealing with planning matters in a manner consistent with good practice, including the conduct of Members in its processes and procedures and should be read alongside the Council's Code of Conduct.
- 1.3 Failure to follow the recommendations set out in this Code of Practice, without good reason, may be regarded as being incompatible with good administration by the Local Government Ombudsman and affect how the Council, its Officers or Members may be perceived by others.
- 1.4 By setting out clearly what is expected of both Members and Officers, it is anticipated that this Code will engender greater mutual understanding and support between all those involved in the planning process. The Code has been produced in the spirit of looking for continuous improvements in the delivery of services, discharging duties responsibly in an open, professional and consistent way compatible with the Council's Code of Conduct and its Protocol for Members/Officer relations.
- 1.5 Both Members and Officers dealing with planning matters and advising Committees will be required to observe all the provisions of this Code.
- 1.6 The Code is set out in the form of a series of headings followed by a brief discussion of the issues involved and best practice advice.
- 1.7 In light of the Localism Act 2011 Members are advised that from 01 July 2011 the description of interests will change. Under the Localism Act Members will need to make sure that they are clear whether they have a disclosable pecuniary interest or a non pecuniary interest when involving themselves in planning matters. Guidance will be issued to Members on the new categories of interests but if Members are not sure then they are advised to contact the Monitoring Officer for clarification.

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**Deleted:** Any allegations that the Code has been breached may be reported to the Standards Committee. If the Standards Committee finds the allegation(s) proven, it has the power to take any sanctions which it deems appropriate, including the removal, either temporarily or permanently, of a Member of the Planning Committee, but excluding formal disciplinary action against an Officer, which must be taken by the appropriate Head of Service, or the Head of Paid Service.

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**2. THE ROLE OF COUNCILLORS**

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## APPENDIX 1

### PART 20

- 2.1 The role of Members is central to the planning system, which operates within a political arena. It is well recognised that planning is not an exact science and, provided that Members are properly briefed by Officers, they are well placed to make decisions.

#### Ward Interests

- 2.2 Members have a special duty to their ward constituents but their overriding responsibility is to the whole community. In terms of the planning process, this can produce a conflict of interest between Members legitimately and effectively giving vent to local, sometimes individual, concerns and the need to reflect the interests of the wider community in decisions reached on planning merits alone. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Members should take account of these views, they should not favour any person, company, group or locality above the wider community interest, nor put themselves in a position where they appear to do so. Members should be mindful of the need to carefully weigh up all of the arguments before deciding what view to take. Where a Member of Planning Committee takes the view that they would wish to speak in relation to an application affecting their ward they may do so as Ward Councillor under the procedure for Public Speaking at Planning Committee. However, they will have to remain in the public gallery after they have spoken and take no part in the debate or vote on the application.

- 2.3 Members should also be very cautious about accepting gifts and hospitality. The Code of Conduct requires any Members receiving any gift or hospitality, in his or her capacity as a Member, over the value of £25, to record that gift or hospitality in the Register of Interests which is open to inspection by the public.

**Deleted:** A personal or prejudicial interest may arise as a result of accepting such a gift or hospitality

#### Lobbying

- 2.4 It is a fact of public life that Members will be subject to varying degrees of lobbying. This is part of the democratic process. However, when individuals or groups seek to influence the outcome of a planning decision, which should be treated upon its individual planning merits in the wider public interest, the impartiality of the decision may be questioned. Such problems might arise if Members indicate their voting intention or support for a particular cause in advance of all the relevant information and Officer advice.
- 2.5 When being lobbied, Members should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the likely outcome of a planning application before they have heard all the evidence and arguments. If they do express an opinion, they should make it clear that they will only be in a position to make a final decision when all the facts are known and they have heard both sides of the argument at Committee. However, if the Member responds to lobbying by deciding to go public in support of a particular outcome, or even campaigning actively for it, the proper course of

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## APPENDIX 1 PART 20

action for such a Member would be to withdraw from the meeting while the application is being considered.

- 2.6 Members should not represent an applicant or individual objector and should not organise support or opposition. In particular, they should avoid representing applicants or objectors in discussions with Planning Officers which may take place before an application is considered by the Planning Committee. Instead they should suggest to those who are lobbying, that they should speak or write to the relevant Planning Officer, in order that their opinions can be included in the officer's report to committee. Any letters referred to and relied upon by Councillors in speaking on an application should be given to the Head of Planning and Regeneration, to be placed on the respective planning file immediately after the meeting.
- 2.7 Members should not lobby other Members or put pressure on Officers to make a particular recommendation. Therefore no political group meeting must take place prior to the committee meeting to discuss the planning applications.
- 2.8 Members of the Planning Committee need to take account of the general public's expectation that a planning application will be processed and determined in an open and fair manner. There is the possibility that an aggrieved party may seek judicial review on the way in which a decision has been arrived at, or complain to the Local Government Ombudsman on the grounds of maladministration.
- 2.9 Members who are unsure as to whether an interest should be declared should seek the advice of the Council's Monitoring Officer.

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### **3. MEMBERSHIP OF PARISH COUNCILS**

- 3.1 Parish Councils are consulted and asked to comment on planning applications prior to their being considered by the District Council's Planning Committee. Sometimes, a member of the Planning Committee will also be a member of a Parish Council and such a situation could give rise to a perception that there is a conflict between these two roles.
- 3.2 Members of the Planning Committee may participate in the formulation of their Parish Council's comments on a planning application and may vote on motions put forward in connection with the making of such comments. However, in doing so, they must recognise that they have not yet received full information about the application e.g. the planning history, comments by other consultees and officer recommendation. They should therefore declare, at the Parish Council's meeting, that in assisting in the formulation of the Parish Council's comments, that they are only forming a preliminary view on the application, that they recognise that there is further information about the application which

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they have not yet received, and that they reserve the right to change their preliminary view, in the light of such further information, when the application is considered by the District Council's Planning Committee.

- 3.3 In this way, members of the Planning Committee, who are also members of Parish Councils, will avoid any perception that they have fettered their judgment on an application before knowing the full facts about it.

### 4. PLANNING SITE VISITS PROCEDURE

- 4.1 Members of Planning Committee will have the opportunity to attend site visits for some of the planning applications which are decided by the Planning Committee.

- 4.2 The purpose of site visits is to allow Members to consider the general setting of the application site so that they will be in the best position to decide whether or not planning permission should be granted. In particular Members will be able to:-

- Observe the geography of the site including the boundaries and its relationship to adjoining properties;
- Consider the scale and impact of the proposed development in relation to the site;
- Use the visit to assess whether any planning conditions might need to be considered.

- 4.3 The normal procedure will be that site visits will be arranged for all the items listed on the Planning Committee agenda.

- 4.4 The exception to 4.3 above is that site visits will not be arranged for sites that have been the subject to a site visit within the preceding 6 months.

- 4.5 The site visit does not constitute a meeting of the Planning Committee. Accordingly, Members should not form a collective view on the issue.

- 4.6 Since Members are attending a site merely to "see what is to be seen"; it is inappropriate to hear from either the applicant or his representative during the site visit. Similarly, it is inappropriate to hear from anybody else who wishes to make representations. This includes the Ward Councillor for the area in which the site is located. The occasion is not a local hearing. Members should leave each site with no collective view - the occasion is simply to assist them individually to form a view.

- 4.7 When the application is next considered by the Planning Committee, the Chairman of the Committee should remind Members that the application was the subject of a site visit, and then let the debate proceed normally.

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**Deleted:** Members visit sites to which applications for planning permission relate because the Planning Committee has decided that Members should have the opportunity of seeing a site or its relationship to adjoining property so that they will be in the best position to decide whether or not planning permission should be granted when next the Committee meets, or whether, say, a condition should be imposed on any grant of planning permission. Site visits may also take place on request by members of the Committee, or by Ward Councillors, prior to the planning application first being considered by the Planning Committee.¶

¶ 4.2 The undertaking of site visits by Members should not be agreed to as a matter of course, bearing in mind the need to determine applications as quickly as possible in accordance with Government advice. A Member should justify/explain any request and the Committee should have regard to whether such justification/explanation is sufficient to warrant the undertaking of a site visit. If not, the request should be refused.

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**5. THE ROLE OF OFFICERS**

- 5.1 Officers, as the paid employees of the Council, have the principal responsibility for carrying out the Council's work. They should provide professional and impartial advice to Members to assist them in reaching their decisions and to the public at large on all planning matters. It is very important that such advice is consistent with the provisions of the prevailing planning policies and guidance so that the planning system is seen to be fair whatever the outcome.
- 5.2 The Planning Committee has given delegated authority to the Head of Planning ~~and Regeneration~~ Services to approve certain categories of planning application as set out in the Council's Scheme of Delegation.
- 5.3 Any decisions delegated to Officers should be clearly minuted.

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**6. OFFICER REPORTS TO COMMITTEE**

- 6.1 All reports shall provide a clear technical appraisal of the application including site location and description, planning history, consultations received and the policy contents for the recommendation, which should be justified in the Officers' written comments.
- 6.2 Reports should have a written recommendation of action; oral reporting (except to update a report) should be avoided and carefully minuted.
- 6.3 Reports should contain technical appraisals, which clearly justify a recommendation.
- 6.4 If the report's recommendation is contrary to the provisions of the development plan or Local Development Framework, the material considerations, which justify the departure, must be clearly stated.
- 6.5 Terms for Planning Obligations (Section 106 Agreements) must be clearly set out, discussed openly and recorded in the minutes.
- 6.6 The Monitoring Officer or his or her representative shall attend all Planning Committee meetings and provide advice, together with legal advice as required.

**7. PRE-APPLICATION DISCUSSIONS**

- 7.1 Officers are often asked informally during meetings whether planning permission is required for changes of use and/or for new development.

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- 7.2 Officers will always endeavour to be as helpful as they can in this matter but can only offer an informal opinion as to whether or not planning permission is required for the development someone wishes to undertake, whether it is a new building, an extension to a home, or a change of use of land or building. Any advice that they offer in this respect is an individual opinion based on the information the enquirer has provided at the time. It is not binding on the Council.
- 7.3 For an official decision, enquirers should be invited to apply for a Certificate of Lawfulness of Proposed Use or Development, under Section 192 of the Town and Country Planning Act 1990. A fee is payable for the processing of such an application but the enquirer will be presented with a legally binding determination, in other words, an official decision of the Council telling him/her whether or not planning permission is required.
- 7.4 The fee varies according to the type of development proposed and staff will be able to advise on the amount payable. It is in the interests of the enquirer to have an official written determination relating to development should he/she want to sell his/her land/property or should any legal challenge arise relating to the work which has been undertaken.
- 7.5 The following guidelines have been adopted to ensure that all parties involved are treated fairly and that the Planning Officers' role is clearly understood:
- Planning Officers will give informal advice in the spirit of helpfulness. It is however only informal advice which is not binding on the Local Planning Authority;
  - Planning Officers will negotiate and offer advice to overcome problems at application stage where a solution is apparent and the proposal can be determined within eight weeks as a consequence;
  - The onus to negotiate falls upon the applicant/agent to offer alternatives to the original submission;
  - Planning Officers cannot advise what a potential recommendation will be should an application be made.

### **8. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN/ LOCAL DEVELOPMENT FRAMEWORK**

- 8.1 The law requires that where the development plan/Local Development Framework is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.

**Deleted:** 8.2. If an application does not conform to the development plan/Local Development Framework it must be identified as soon as possible and then advertised in the local press. If it is intended to approve such an application, the material considerations must be clearly identified, and how these considerations justify overriding the development plan/Local Development Framework. The application may then have to be referred to the Government Office for the West Midlands, depending on the scale of the development.¶

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**9. DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

9.1 Members are perfectly entitled to reach different decisions to those recommended to them by Officers by attaching different weight to the various relevant planning criteria. That this happens from time to time is inevitable but it is essential that the public be left in no doubt as to how the decision was reached. Officer reports must be well structured and the public should not be given the impression that decisions reached contrary to advice are made hastily or new conditions imposed on the spur of the moment. A full detailed minute of the Committee's reasons should be made. The Officer should also be given an opportunity to explain the implications of the contrary decision.

9.3 Where a Member is minded to raise new issues, information or questions, they are advised to contact the respective Planning Officer or Head of Planning and Regeneration, before the meeting wherever possible.

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9.4 Where a Member is minded to make a recommendation, which is contrary to the Officer recommendation, then:-

(i) in the case of a refusal, the planning reasons should be clearly set out;

(ii) in the case of an approval, the type of conditions proposed should be indicated.

9.5 If an imminent decision is thought to be perverse, the Head of Planning and Regeneration, or the Monitoring Officer should so advise the Committee, but it remains the role of the Chairman to decide whether or not it would be preferable to defer consideration to allow for a period of reflection on the advice given before proceeding.

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9.6 Where an application is refused or conditions imposed contrary to an officer recommendation, it may not be in the Council's best interests for the Case Officer to give evidence at any subsequent public inquiry or hearing resulting from an appeal. In such circumstances it will be a matter for the Head of Planning and Regeneration, in consultation with the Head of Legal, Equalities and Democratic Services to establish whether a suitably experienced and qualified Officer exists within his establishment who is able to concur professionally with the decision taken. If so, then they will act as the Council's professional witness. If not, then the use of planning consultants will be explored. It is rarely in the Council's best interests for individual Members to represent the Council but this may be appropriate where factual evidence is in dispute particularly in enforcement appeals.

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- 9.7 All planning approvals and refusals shall be fully minuted. Unless otherwise stated, these should accord with those set out in the Agenda subject to the incorporation of any further conditions or reasons (or variations) thought to be necessary by the Head of Planning & Environment Services to give full effect to the Council's wishes about any particular application.

### **10. DEALING WITH APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS AND COUNCIL SERVICE AREAS**

- 10.1 The submission of planning applications and/or development plan proposals by serving Members, Officers, or their close friends and relatives can easily give rise to suspicions of impropriety, including proposals for the Council's own development. The following points should be taken into account:

#### **Members**

- 10.2 Serving Members of the Council who act as agents for people pursuing planning matters, shall not be Members of the Planning Committee.

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- 10.3 Members should take no part in the processing of their own applications or those of their immediate family or close friends or anyone with whom the Member has a close personal association.

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- 10.4 As soon as a planning application is received from a Member, the Head of Planning and Regeneration must inform the Council's Monitoring Officer, who will take such steps as are necessary to ensure that applications for dispensations from other Members of the Planning Committee are considered as soon as possible.

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- 10.5 Members who are members of the Planning Committee should declare an interest in respect of applications prepared by them or on their behalf and leave the meeting while such applications are under consideration.

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- 10.6 Applications of currently serving Members should not be dealt with under delegated powers and should be decided by the Planning Committee.

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#### **Officers**

- 10.7 Serving Officers should never act as agents for people pursuing a planning matter.

- 10.8 Officers should take no part in the processing of their own planning applications or those of their immediate family or close friends.

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- 10.9 Applications for Planning Consents made to Bromsgrove District Council by, Officers currently working for either Bromsgrove District

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Council or Redditch Borough Council should not be dealt with under delegated powers and should be decided by the Planning Committee.

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### **Developments by the Council**

- 10.10 Planning applications made by Council Service Areas must be processed in accordance with existing policy and treated in the same way as a private application except that all such applications shall be considered by the Planning Committee and not determined under delegated powers.

**Deleted:** Any Members on the Planning Committee who also sat on an initiating Committee (usually the Cabinet) should consider if they have a personal or prejudicial interest.¶

### **Applications submitted by former Members and former employees**

- 10.11 There has been some considerable concern about former employees setting up their own consultancies and providing planning advice in the Bromsgrove District area and about the consideration of applications by or on behalf of former Members. Both circumstances occur from time to time and the guiding principles should be that:-

- (i) applications by former Members will be treated in the same way as any other application;
- (ii) applications by former employees whether they are acting for themselves or an agent for others will be treated in exactly the same way as any other application.

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**Deleted:** ; the Code of Conduct states that a Member has a personal interest in any business where it might reasonably be regarded as affecting the well-being or financial position of a member of his or her family or any person with whom he or she has a close association. Standards Board for England guidance states that a person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. A personal interest will also be a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the Member's judgment of the public interest.¶

### **Applications by Members of Political Associations**

- 10.12 Where a planning application is made by someone who is not a Member, but is known to be a member of the same Political Association as some of the members of the Planning Committee, those Members will need to give consideration as to whether they should declare an interest when the application is considered.

- 10.13 In some cases, no declaration will be necessary, but in other cases the relationship between the parties may be close enough to warrant a declaration of interest. Councillors should have regard to the Council's Code of Conduct and should err on the side of safety.

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### **11. REVIEW AND MONITORING**

¶ The effectiveness of this Code will be monitored by regular reports to the Standards Committee by the Monitoring Officer. Formal complaints made under the Council's Customer Feedback System and on investigations made by the Local Government Ombudsman will also be taken into account in monitoring the effectiveness of the Code.¶

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**11. MOTIONS ON NOTICE**

**Notice**

- 11.1 *The process for submitting notices of motion to be debated at Full Council will be as follows. By no later than 9.00am on the seventh calendar day before the date of the meeting the originator of the motion must deliver to the Monitoring Officer by post or electronic means :-*

- (a) written notice of the motion; and*
- (b) any supporting information and statistics.;*

*Subject to the provisions of 11.6 ( Rejection of Notice of Motion) the notice of motion and any supporting information will be circulated to Group Leaders, linked into the Council's website for public access and tabled at Full Council.*

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