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 Councillors' 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 Councillors' 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.

2. THE ROLE OF COUNCILLORS

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. Members should abide by the Council's Code of Conduct for Gifts and Hospitality, including recording offers and/or acceptance of these in the register as required.

Interests arising from the Code of Conduct

2.4 Under the Council's Member Code of Conduct, Members will need to make sure they are clear whether they have a discloseable pecuniary interest or other discloseable interest when involving themselves in planning matters.

2.5 Members who are unsure as to whether an interest should be declared should seek the advice of the Council's Monitoring Officer **at an early stage.**

Lobbying

2.6 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. However, section 25 the Localism Act states that a member is not to be regarded as having a closed mind about a decision simply because they have previously expressed a view on it.

2.7 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. On occasion, the Member may

respond to lobbying by deciding to go public in support of a particular outcome, or even campaigning actively for it.

2.8 However, Members must not have a closed mind when they make a decision. Decisions taken by those with pre-determined views are vulnerable to successful legal challenge. At the point of making a decision, members must carefully consider all the evidence that is put before them and be prepared to modify or change their initial view in the light of the arguments and evidence presented. Then they must make their final decision at the meeting with an open mind based on all the evidence.

2.9 Where a Member has campaigned for or come to a final view prior to a meeting, the member should not take part in the decision making process. Depending on the circumstance and to preserve the appearance of propriety, the member should also consider whether or not to withdraw from the public gallery, after making his or her representations to the planning committee.

2.8 Members should not represent an applicant or individual objector and should not organise support or opposition for a planning application or other planning decision. 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 Assistant Director Planning Leisure and Culture Services to be placed on the respective planning file immediately after the meeting.

2.9 Members should not lobby other Members in relation to planning applications. The process is apolitical and no political group meeting must take place prior to the committee meeting to discuss the planning applications. Members must not put pressure on Officers to make a particular recommendation or to exercise a delegation in a particular way. Following the introduction of the National Scheme of Delegation, Members should not place pressure on officers, or attempt to influence them in relation to their assessment of Schedule 2 applications for the purposes of the Gateway Test. Likewise, Members should not lobby the Chair and Vice Chair of Planning in relation to decision making regarding the Gateway Test.

2.10 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.

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 Borough 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 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 Borough 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.

3.4 Members are advised to let the planning committee know any ward interest, participation in parish council responses to applications or any significant lobbying at the meeting, whether or not they decide that it is appropriate to participate in the debate and determination regarding an application.

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 Site visits will not be arranged for sites that have been the subject of a site visit within the preceding 6 months.

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

4.5 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.

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

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 Assistant Director Planning Leisure and Culture 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 recorded.

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.

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 the statutory time limit 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 planning considerations indicate otherwise. Members will receive training and guidance from officers as to what constitutes material planning considerations. In certain situations, legislation requires the Council to notify the relevant Secretary of State before granting permission contrary to the development plan. Officers will advise members if this process is necessary and will carry out the process.

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.

9.2 Where a Member is minded to raise new issues, information or questions, they are advised to contact the respective Planning Officer or Assistant Director Planning Leisure and Culture Services before the meeting wherever possible.

9.3 Where a Member is minded to make a recommendation, which is contrary to the Officer recommendation, then the reasons should be clearly set out, particularly in the case of a refusal and in the case of an approval, the type of conditions proposed should be indicated.

9.4 If an imminent decision is thought to be perverse, the Assistant Director Planning Leisure and Culture Services or the Monitoring Officer should

so advise the Committee, but it remains the role of the Chair 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.

9.5 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 Assistant Director Planning Leisure and Culture Services 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.

9.6 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 & Regeneration 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

General principles

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.

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.

10.4 As soon as a planning application is received from a Member, the Assistant Director Planning Leisure and Culture Services 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.

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.

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

Officers

10.7 Serving Officers in the planning department should never act as agents for people pursing a planning matter. If an officer in another department acts as such agent for people pursing a planning matter, the matter cannot be dealt with under delegated powers and should be decided by the Planning Committee.

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

10.9 Applications for Planning Consents made to Redditch Borough Council by Officers currently working for either Bromsgrove District Council or Redditch Borough Council or their family members, whether or not directly employed by them and should be decided by the Planning Committee.

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.

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 Redditch Borough 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.

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 Councillors' Code of Conduct and should err on the side of safety.

Implications of Introduction of National Scheme of Delegations

10.14 Since this Code was originally written the government has introduced the National Scheme of Delegations of Planning Functions. The relevant documents are: -

- The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ("the regulations") – made on 15th July 2026 - in force from 31st October 2026.
- The Planning Committees and the National Scheme of Delegations of Planning Functions: Guidance for Local Planning Authorities in England ("the guidance") – issued on 1st June 2026

10.15 The main effect of the regulations is to impose a mandatory scheme of delegation for the making of planning decisions on Councils in England. In summary applications are divided into Schedule 1 matters which must be decided by officers, and Schedule 2 matters which may be decided by officers or by Planning Committee. A test has been introduced ("the Gateway Test") to enable those Schedule 2 applications that might need to go to Planning Committee to be assessed against set criteria.

10.16 The Council has made arrangements to implement the provisions of the regulations. The changes are set out in the following updated parts of the constitution: -

- Scheme of Delegations for Development Management Part 6.9
- Scheme of Delegation for Trees (in relation to the carrying out of work on/ felling of TPO protected trees) Part 6.5
- Planning Committee Procedure Rules Part 14

10.17 Regulation 6 relates to planning applications made by serving Members, Officers or the Council itself. It introduces the term of "own-interest application" which is defined as an application to a relevant planning authority of a kind specified in Schedule 1 or Schedule 2 made by or on behalf of that authority, a member of that authority or an officer of that authority.

10.18 For ease of reference, the new term of own-interest applications encompasses the applications described in this code in the following paragraphs: -

- 10.6 - applications made by currently serving members or immediate family or close friends of members
- 10.9 – applications made by currently serving officers or immediate family or close friend of officers
- 10.10 – applications made by the Council

10.19 Whilst the regulations and guidance indicate that there is discretion for own-interest applications to be decided by officers under delegated powers, for reasons of openness and transparency the majority of own-interest applications should continue to be decided by committee in accordance with the practice that was in place prior to the introduction of the regulations. There may occasionally be exceptions to this when the nominated officer and nominated member may form the view that a minor or technical matter would be appropriate to be decided by officers under delegated powers.