

14 November 2016

<b>Committee</b>	Planning
<b>Date</b>	Tuesday, 22 November 2016
<b>Time of Meeting</b>	9:00 am
<b>Venue</b>	Council Chamber

**ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND**



**for Sara J Freckleton  
Borough Solicitor**

<b>Agenda</b>
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**1. ANNOUNCEMENTS**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (staff should proceed to their usual assembly point). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

**2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

To receive apologies for absence and advise of any substitutions.



### 3. DECLARATIONS OF INTEREST

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.

### 4. MINUTES

1 - 29

To approve the Minutes of the meeting held on 25 October 2016.

### 5. DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL

#### (a) Schedule

To consider the accompanying Schedule of Planning Applications and proposals, marked Appendix "A".

### 6. DEVELOPMENT CONTROL - APPLICATIONS TO THE COUNTY COUNCIL

To note the following decision of Gloucestershire County Council:

Site/Development	Decision
15/00987/CM Land at Shurdington Road Shurdington	Application <b>PERMITTED</b> subject to conditions in relation to the commencement of development; restoration and aftercare; scope of the permission; permitted development; hours of operation; pollution prevention; highway safety; environmental protection and landscaping for the following summary of reasons:
Retention of the Waste Transfer Station by variation of condition 2 of temporary planning permission 14/0046/TWMAJW dated 21/08/2014 which limited to life of the site until 21 August 2015.	"Temporary planning permission has been granted by Planning Committee for a further period of 10 years, rather than the permanent retention of the site which the operator sought, due to the Green Belt location and permits the Applicant more time to seek an alternative non-Green Belt site. The proposal represents a relatively small scale waste recycling operation; the site is located within the Gloucester Cheltenham Green Belt, where planning permission would not normally be granted because the operation would not preserve the openness of the rural area in accordance with the National

Planning Policy Framework.

Whilst one statutory consultee has objected to the proposal, 26 local residents and businesses have objected to the continued use of the site for waste recycling. Objections have been raised on the grounds of noise and dust and traffic generated by the site. A condition requiring the submission of a scheme to surface the access road between the public highway and the site entrance has been imposed in order that the concerns about mud and dust and noise can be addressed. The proposals have taken into account their impact on the environment and impact on the local highway network in accordance with Policy 37 of the Gloucestershire Waste Local Plan. The benefits of retaining the site, albeit for a temporary period, are considered to outweigh the harm caused to the Green Belt and that very special circumstances applied which provided justification in accordance with Policy WCS13 of the Waste Core Strategy. The resolution of the Planning Committee was that very special circumstances existed that clearly outweighed any potential harm to the Green Belt by virtue of economic, environmental and wider sustainability benefits of this particular site, subject to it being limited to a ten year period.”

**7. REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS** 30 - 113

To consider the proposed amendments to the Protocol for Councillors and Officers Involved in the Planning Process and to put forward any comments for consideration by the Standards Committee at its meeting on 22 November 2016 prior to the revised Protocol being taken to the Council meeting on 6 December 2016.

**8. CURRENT APPEALS AND APPEAL DECISIONS UPDATE** 114 - 119

To consider current Planning and Enforcement Appeals and CLG Appeal Decisions.

**9. ADVANCED SITE VISITS BRIEFING**

120

To note those applications which have been identified as being subject to a Committee Site Visit on the Friday prior to the Planning Committee meeting at which they will be considered.

**DATE OF NEXT MEETING****TUESDAY, 20 DECEMBER 2016****COUNCILLORS CONSTITUTING COMMITTEE**

Councillors: R E Allen, R A Bird, Mrs G F Blackwell, D M M Davies, M Dean, R D East (Vice-Chair), J H Evetts (Chair), D T Foyle, Mrs M A Gore, Mrs J Greening, Mrs A Hollaway, Mrs E J MacTiernan, J R Mason, A S Reece, T A Spencer, Mrs P E Stokes, P D Surman, R J E Vines and P N Workman

**Substitution Arrangements**

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

**Recording of Meetings**

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

## TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Tuesday, 25 October 2016 commencing  
at 9:00 am**

**Present:**

Chair  
Vice Chair

Councillor J H Evetts  
Councillor R D East

**and Councillors:**

R E Allen, Mrs G F Blackwell, D M M Davies, M Dean, D T Foyle, Mrs M A Gore,  
Mrs J Greening, Mrs R M Hatton (Substitute for R A Bird), Mrs A Hollaway, Mrs E J MacTiernan,  
J R Mason, A S Reece, T A Spencer, Mrs P E Stokes, P D Surman, H A E Turbyfield (Substitute  
for R J E Vines) and P N Workman

**also present:**

Councillors Mrs H C McLain, V D Smith and M G Sztymiak

**PL.40 ANNOUNCEMENTS**

- 40.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 40.2 The Chair welcomed Jamie Mattock, Principal Development Co-ordinator, and Oliver Eden, Development Co-ordinator, from Gloucestershire County Highways to the meeting.
- 40.3 Members were reminded that, at its meeting on 17 May 2016, the Council had confirmed the Scheme for Public Participation at Planning Committee as a permanent arrangement. The Chair gave a brief outline of the scheme and the procedure for Planning Committee meetings.

**PL.41 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 41.1 Apologies for absence were received from Councillors R A Bird and R J E Vines. Councillors Mrs R M Hatton and H A E Turbyfield would be acting as substitutes for the meeting.

**PL.42 DECLARATIONS OF INTEREST**

42.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

42.2 The following declarations were made:

<b>Councillor</b>	<b>Application No./Item</b>	<b>Nature of Interest (where disclosed)</b>	<b>Declared Action in respect of Disclosure</b>
R E Allen	16/00894/FUL Lynch Lane Farm, Greenway Lane, Gretton.  16/00895/LBC Lynch Lane Farm, Greenway Lane, Gretton.	Had received correspondence and telephone calls in relation to the applications but had not expressed an opinion.	Would speak and vote.
Mrs G F Blackwell	16/00936/FUL 2 Crifty Craft Lane, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.
M Dean	16/00890/FUL The Crofts, Butts Lane, Woodmancote.	Is a Borough Councillor for the area.	Would speak and vote.
R D East	General Declaration.	Had received correspondence in relation to various applications but had not expressed an opinion.	Would speak and vote.
Mrs M A Gore	16/00241/FUL Land Parcels 7946 and 9067, 300087 Walton Cardiff Road to Newtown Farm, Ashchurch.	Is a Borough Councillor for Stoke Orchard and had attended several meetings in relation to the application, including a presentation by the developer held at the Parish Council, but had not expressed an opinion.	Would speak and vote.

Mrs A Hollaway	16/00890/FUL The Croft, Butts Lane, Woodmancote.	Is a Borough Councillor for the area.  Her family own land next door to the application site.	Would not speak or vote and would leave the Chamber for consideration of this item.
Mrs P E Stokes	16/00936/FUL 2 Crifty Craft Lane, Churchdown.	Is a Member of Churchdown Parish Council but does not participate in planning matters.	Would speak and vote.

42.3 There were no further declarations made on this occasion.

#### **PL.43 MINUTES**

43.1 The Minutes of the meeting held on 27 September 2016, copies of which had been circulated, were approved as a correct record and signed by the Chair.

#### **PL.44 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL**

##### **Schedule**

44.1 The Development Manager submitted a Schedule comprising planning applications and proposals with recommendations thereon. Copies of this had been circulated to Members as Appendix A to the Agenda for the meeting. The objections to, support for, and observations upon the various applications as referred to in Appendix 1 attached to these Minutes were presented to the Committee and duly taken into consideration by them prior to decisions being made on those applications.

##### **16/00241/FUL – Land Parcels 7946 and 9067, 300087 Walton Cardiff Road to Newtown Farm, Ashchurch**

44.2 This application was for the erection of a biomass-based anaerobic digestion (AD) facility and associated works. The Committee had visited the application site on Friday 21 October 2016.

44.3 The Chair invited John Hargreaves, representing Ashchurch Rural Parish Council, to address the Committee. Mr Hargreaves indicated that the applicant had stated at its presentations that the plant had to be in this particular location because the gas pipe ran under the site. Whilst it was true that the gas pipe did run under the site, it also ran into Wales via Tirley from Fiddington and on through Teddington to Stratford-Upon-Avon so there were other sites suitable for an AD plant which had better access for heavy goods vehicles and were in the same catchment area. Fiddington had no gas pipe network for domestic use and would not actually benefit from the gas being produced there. The development comprised seven massive domes and holding tanks up to 18.5m high which was taller than a six storey block of flats. As the Landscape Officer stated in his report, it was industrial use which would cause harm to the local community due to its scale, form and proximity and would exert an adverse impact upon landscape character. With regard to highways, he noted that the National Planning Policy Framework promoted sustainable transport by protecting vulnerable road users. Gloucestershire County Highways had produced a report to demonstrate that the mitigation works, which included widening the lanes; piping ditches; and removing grass verges and some hedges; would also remove the refuge for vulnerable road users. These changes would facilitate 15,500 annual

tractor movements, which equated to 75 movements per day or one every 6.5 minutes for six months of the year, and would turn the typical rural lanes into an industrial road network. The bridleways and footpaths, including the Gloucestershire Way, would be in danger of disappearing as vulnerable road users would be less likely to venture out onto the lanes. The applicant had failed to prove that the development would be sustainable, eco-friendly and carbon neutral; Ecotricity had stated that the plant would be carbon positive for 20 years which meant that it would be producing more carbon than it saved for 20 years. As well as producing useful Methane gas (55%), which would be pumped into the gas main, it would also produce harmful gas ammonia and Carbon Dioxide (45%) which would be released directly into the atmosphere and this needed to be added to the harmful exhaust gases which would be generated by tractors travelling up to 21,000km per week.

- 44.4 The Chair invited Tony Davis, speaking on behalf of the action group 'Save Our Lanes' which objected to the proposal, to address the Committee. Mr Davis stated that the project would result in one of the largest chemical gas plants in the country and, to put it into context would be larger than the whole of Tewkesbury High Street. It would certainly not be in keeping with the open countryside and the Landscape Officer had concluded that there would be harm to the local landscape character, resulting from clear view of the facility with a land use and activity that was more industrial than agricultural which was unprecedented within the 'intimate field pattern' around Fiddington. Or, to put it another way, the applicant wished to shoehorn a chemical-based industrial estate into the middle of open countryside, under a seemingly green eco-friendly and agricultural umbrella, to try and satisfy planning rules. Seven dome structures up to 35m across and 18m high would dwarf nearby houses; you could fit all the houses in Fiddington into the domes and still have room to spare. Silage would be loaded every day of the week, 365 days a year at a rate of 150 tonnes per hour which would generate significant noise. More than 140,000 tonnes would need to be transported to and from the site down narrow lanes using the largest and heaviest vehicles permissible on the highway. There would be some 15,000 trips per year with, on average, one vehicle movement every 7-8 minutes every day for six months of the year and he asked Members to imagine the noise at 7:00am every Sunday morning. It was the residents of Fiddington and the surrounding area that he represented who would suffer long after the theorists and consultants who thought it was acceptable had gone. Save Our Lanes objected to the noise levels that would be generated, the acknowledged inevitable smell that would emanate every day from the vast 6m high silage clamps and the light pollution which would be generated by this industrial plant. He recognised that some smells and noise were to be expected within the countryside but not on this scale and not every day of the year. Gloucestershire Highways had stated that the lanes must be widened to ensure safety but this was not possible in a number of places where the highway was too narrow to provide adequate width for very large vehicles to pass one another. He asked Members to consider the bridge over the Swilgate, already accident damaged, and the Odessa junction, as well as the A46 and vulnerable users along unlit lanes. Overall, if it was allowed to proceed, the application would industrialise and devastate the hamlet of Fiddington and the surrounding area. The development was nothing to do with agriculture and he urged Members to reject the proposal and consign it to an industrial estate where it belonged, not in open countryside.
- 44.5 The Chair invited Jamie Baldwin, representing the applicant, to address the Committee. Mr Baldwin explained that the applicant, Ecotricity, was a Gloucestershire-based company that generated and supplied renewable energy. The proposed AD plant would process grass silage and forage rye to produce biomethane to be injected into the gas grid via existing infrastructure within the same field. This green gas would displace fossil fuel gas and could be used for cooking, heating and vehicle fuel in the same way natural gas was already used; the plant would generate enough green gas for 6,200 homes. The by-product of the process



was a nutrient-rich digestate which would be returned to the agricultural land, maintaining soil fertility and replacing the use of costly fertilisers. This location was suitable because of the existing network of farms where feedstock could be grown; 2,000 hectares of land was needed to supply the yearly feedstock. The applicant already had firm interest from local farmers with approximately 2,900 hectares of land available within 15km of the site. This plant would help provide a secure long-term future for local farms with a confirmed income stream, putting much needed money into the local economy at a time of uncertainty around European-funded subsidies. Feedstock would be sourced from land where grass was grown as a break crop. Growing grass in that way also provided an effective means to control weeds such as black grass. Throughout the planning process, the applicant had undertaken extensive consultation, including before and after submission of the planning application. As detailed in the Committee report, no statutory consultee had objected to the proposal. Importantly, there was no objection from Highways England with respect to impacts on the A46, either in terms of traffic volume or road safety. Likewise, there was no objection from County Highways with respect to any other road, either in terms of traffic volume, highway damage or road safety, that would not be adequately mitigated through the conditions proposed and a Section 106 Agreement. The applicant had worked closely with County Highways to ensure that the local roads could adequately accommodate the additional farm traffic and they would be happy to agree transport conditions and a legal agreement to control traffic movements and protect local amenities as well as committing to ongoing community liaison during the lifetime of the plant. He respectfully asked Members to vote in favour of the Officer's recommendation and, in so doing, acknowledge accordance with the adopted local and national policy; the national and local need for renewable energy, carbon reduction and energy security; the wider public interest of, and registered support for, the proposed development; and the economic and environmental benefits to Tewkesbury Borough and, in particular, the local agricultural community.

- 44.6 The Chair invited Councillor Heather McLain, Ward Councillor for Ashchurch Rural, to address the Committee. Councillor McLain indicated that she was in attendance on behalf of the local community to support their concerns about the application, which she shared. There had been a huge wealth of information provided to Members which was well and carefully researched and she intended to touch upon a few of those points. Members would be aware that all of the local Parish Councils had submitted objections and residents believed that there were strong grounds for refusal. It was clear from the representations that this was a change of use from long established agricultural to industrial use. The report in front of Members set out that the Government defined an industrial scale installation as something that was, quite rightly, set in an urban or industrial area; Fiddington was not either and the size of the plant was totally unsuitable for the setting. She noted that one of the domes alone would be 13.5m high, with 3m underground, and she questioned whether that was acceptable. The Landscape Officer described it as an activity that was more industrial than agricultural and would cause harm to local views and dwellings due to its scale, form and proximity, exerting an adverse impact upon the landscape character. The development would have a massive impact on the landscape and she drew particular attention to Policy LND4 of the local plan which set out the need to protect the character and appearance of the rural landscape. She raised concern about what sort of precedent would be set if the application was permitted and whether it would give 'carte blanche' for AD plants to be constructed in any location. In terms of the impact on the local lanes and roads, it was projected that there would be 15,000 heavy goods vehicle movements per year with tankers, tractors and trailers operating 365 days of the year, and one every seven minutes during peak periods. 70% of those movements would be via the A38 Odessa junction; everyone knew how narrow, tight and tricky that was, with little scope for widening. She pointed out that the National Planning Policy Framework stated that any application

should be sustainable and she questioned whether there was 80,000 tonnes of feedstock available within a 15km radius and, even if it was, whether it would be sustainable particularly given that the feed-in tariffs for this type of plant would be gone by January 2017. She felt that there were strong grounds for refusal under the National Planning Policy Framework and, if this development were permitted, it would result in an unsustainable white elephant dominating a rural landscape. She asked Members to think about the damage to the environment, both human and physical, with 15,000 heavy goods vehicle movements 365 days per year; a vast industrial development causing visual damage to the landscape, light and noise pollution. Centuries of stewardship of hedgerows, watercourses, field patterns and co-existence of wildlife would be gone. This was the wrong development on the wrong site and she urged Members to refuse the application.

- 44.7 The Chair invited Councillor Vernon Smith to address the Committee; it was noted that Councillor Smith was exercising his discretion to speak under the Constitution. Councillor Smith indicated that he was sure that Members had realised that the size, scale and appearance, and continual seven day per week operation, of this plant would make this purported agricultural development very much industrial. He felt that highways issues in particular must be taken into consideration and he made reference to the fact that Highways England was minded to refuse 900 houses being built in Fiddington as part of the Joint Core Strategy due to the saturation levels already reached on the A46. The site was to use 80,000 tonnes of silage, being imported from a 10 mile radius, which would result in journeys of up to 32 miles, generating some 15,500 tractor, trailer and tanker movements. He stressed that this would be the largest gas plant of its nature in the country. The level of large vehicle movements would have an impact not only on roads around the site, but much further afield. Members had seen first-hand, and it had been highlighted in the County Highways summary, that there were serious concerns about the lanes approaching the site which were totally unsuitable, even with the suggested extensive mitigation. The mitigation itself would change the dynamics of the lanes; removing hedges and widening the lanes would increase the speed of existing traffic, creating yet more safety issues. The site would be operating seven days per week and there would be no respite for residents, or the many vulnerable walkers, cyclists and horse-riders who used the lanes. He pointed out that the local MP had objected to the proposal, as had the local Parish Councils. It was all too easy to be swayed by the supposedly green credentials of the application but there was uncertainty about the viability of AD plants; the government was discouraging plants where purpose grown feedstocks were used by removing the feed-in tariff subsidies. Whilst there may be a small amount of jobs created, this would be totally disproportionate to the disruption to the ecology and local community and he urged Members to consider the facts and refuse the application.
- 44.8 A Member found it interesting to note that the mitigation measures proposed by the applicant included road widening and he sought assurance that there would continue to be safe access for pedestrians to leave the highway and stand aside whilst vehicles passed by. A representative from County Highways clarified that the proposals would improve the facilities for pedestrians who currently had to step off the carriageway onto a grass verge, and he confirmed that there would be more space for all users. A Member sought clarification as to which roads would be widened as it had initially seemed as though all roads would be altered but the map suggested that it would only be certain sections. The County Highways representative confirmed that it would be unreasonable to widen the full length of the lane as there were a number of places where it was currently possible for two vehicles to pass. There would be occasions where large vehicles coming together would have to give way on straight sections but this was not unusual during peak periods in rural areas. A Member drew attention to recommended conditions 7, 8, 9, 15 and 21 and questioned whether the information requested should have been submitted prior to Committee determination. In respect of condition 7, the Planning

Officer advised that it was quite usual for the Local Planning Authority to require details of the external lighting scheme by condition and this element of the development could be adequately controlled through condition. Condition 8 had been included based on the consultation response from the Lead Local Flood Authority which set out that the drainage solutions put forward seemed to be acceptable but more detailed information was needed; again, this was a common requirement at the condition stage. Condition 9 related to the submission of hard and soft landscaping details and Members were informed that the applicant had given a good indication of the proposals, which incorporated bunds and associated planting, but the condition required the full details of the scheme; for hard landscaping this included car parking bay layout and hard surfacing materials, and for soft landscaping this included plant schedules including species, sizing and proposed numbers/densities. This was linked to Condition 10 which required the submission of an implementation timetable and ensured the replacement of any trees or plants which were removed or died. Condition 15 related to road widening and reflected the fact that this would be at various pinch-points along the lane rather than the entire length. County Highways was happy that this could be conditioned to be dealt with at a later stage and Planning Officers felt this was appropriate. Condition 21 required a full noise report to be undertaken as well as the submission and approval of a noise validation report which could only be carried out when the development was in operation. It was noted that this condition had been recommended by the Environmental Health department.

- 44.9 A Member noted the suggestion that the road would be widened by 0.5m along the pinch points on Fiddington Lane to the A46 and A38, which she considered to be totally insufficient, and made reference to an incident which had occurred during the Committee Site Visit when the coach had encountered a tractor with a trailer when it was turning right onto the A38 from the Odessa junction and had almost resulted in a major accident. In light of this, she questioned whether County Highways was satisfied that it had carried out a full study of the road requirements. A County Highways representative explained that consideration had been given to moving back the stop line at the Odessa junction to provide more turning space. Once on the straight section, the road had capacity of approximately 5.5m and the trailers being used would be approximately 2.4m wide which meant that it would be quite tight if two similar vehicles needed to pass one another. Notwithstanding this, vehicles were currently using that part of the network and, whilst vehicle movements would increase as a result of the development, the government set out that there needed to be a severe impact to justify refusal of the application on that basis. The Member went on to question whether there would be a one way system and was informed that there was a proposal for a Section 106 Agreement which would restrict some of the development traffic on specific routes including the A38 which would prevent vehicles from making that turning. In response to concern about feedstock supplies, Members were informed that the applicant was aware of where the feedstock was coming from but had not provided specific details and it would be subject to contracts. It should be borne in mind that sources of material would change over time which was why this element of the proposal needed to be monitored.

- 44.10 The Chair indicated that the Officer recommendation was to delegate authority to the Development Manager to permit the application, subject to a Section 106 Agreement to control the number, type and routing of vehicles, and he sought a motion from the floor. It was proposed and seconded that the application be refused on the grounds of harm to the character and appearance of the open countryside; cumulative impact in respect of light, noise and air pollution; and impact of the development on highway safety. The proposer of the motion indicated that, whilst she believed that a biomass facility did offer benefits in respect of gas production, she had major concerns over the siting of the facility and she did not believe that the benefits of the facility outweighed the disadvantages. She drew attention to Page No. 317,

Paragraph 4.3 of the Officer report, which referred to Paragraph 93 National Planning Policy Framework and Policy EVT1 of the Tewkesbury Borough Local Plan, and expressed the view that the proposal would result in an unacceptable loss of local amenity to residents by reason of traffic and other disturbances such as light pollution, air pollution and noise; the proposal would result in risk to public health and safety – those who had attended the Committee Site Visit had seen the effects of a large tractor and trailer attempting to turn off the A38 into Tredington Road and it was clear that two tractors travelling in opposite directions would just not get through; and the proposal would adversely affect the landscape on the basis that a large industrial plant would be sited in open countryside and the Council's own Landscape Consultant had stated that the scheme would exert a strong influence on views in a very distinct rural location and would result in material harm. Page No. 318, Paragraph 5.3 of the Officer report, set out that, when considering locations, local planning authorities should critically take into account potential impacts on the local environment, including cumulative impacts, and the views of local communities should be listened to. All local Parish Councils and over 240 residents had objected to the proposal, all offering very valid reasons not to permit the application, and she believed that these views had to be taken into account. In respect of highways, from Page No. 322, Paragraph 5.42 of the Officer report, road widening looked to be extensive, however, in reality there were just a few small areas of the roads which were recommended to be widened leaving most of the lanes as little more than single track roads, certainly not wide enough for passing oncoming vehicles. County Highways had made no suggestion of widening the junction at the Odessa and Members had seen how dangerous that had could be as there was very little room to manoeuvre. Given that there was a 15km radius from which the feedstock deliveries would be coming, there would be an impact on the wider road network in Winchcombe, Gotherington, Stoke Orchard and Bishop's Cleeve with all traffic going down the lanes and into Tredington. The proposal was contrary to policies LND4, EVT1, EVT3 and TPT1 of the Tewkesbury Borough Local Plan, and INF6 of the Joint Core Strategy submission, as well as the National Planning Policy Framework and Planning Practice Guidance and she felt that it should be refused on that basis.

- 44.11 The Chair indicated that it would be difficult to sustain a technical reason for refusal on highway grounds on the basis of the advice from County Highways, however, it had been obvious from the Committee Site Visit that the amenity of local residents would be adversely affected by the traffic generated by the proposal and there would be a significant impact on the general feeling of the area. Whilst the proposer of the motion understood that the Council may be at risk of paying costs if the application was refused and went to appeal, it was her strong view that there were highway grounds for the application to be refused. A Member indicated that, when attending the Committee Site Visit, he had been very aware of the impact of the proposal on Tyrefield Cottage. He felt that it would contravene Article 8 of the Human Rights Act, which gave the right to respect for private and family life, and Article 1, which allowed for the peaceful enjoyment of possessions, and felt that this should also be included in the reasons for refusal.
- 44.12 In response to the comments which had been made, the Development Manager explained that the County Highways Officers were required to assess the application from a technical perspective and had come up with robust conditions in terms of that guidance. Whilst he recognised that things could often seem different on the ground, an Inspector would look at the specialist consultee response which could put the Council at risk of costs should Members be minded to refuse the application on highway grounds. Notwithstanding that, there was an issue around the impact on current users of the roads – pedestrians, cyclists and horse-riders as well as vehicular traffic – and he suggested that this was something which could be included as a reason for refusal. In terms of the issues around noise, air and light pollution, there was a similar concern in that Environmental Health had assessed the application and had raised no objection on technical grounds, however, there was a

potential substantive objection on the basis of the impact on the feel of the area and the disturbance to the peace and tranquillity which currently existed. If Members were minded to refuse the application, his advice would be to focus on these elements together with the landscape harm which would be caused. The proposer and seconder of the motion indicated that they would be happy for the Development Manager to formulate refusal reasons on that basis and, upon being put to the vote, it was

**RESOLVED** That the application be **REFUSED** on the basis that the proposed development would exert a strong adverse impact on the local landscape character and result in significant landscape harm and the scale and nature of the proposed development would have a harmful impact on the character, appearance and peace and tranquillity of the area; the potential light, noise and air pollution would cause harm to the amenity of users and residents of the local area; and the local road network was not suitable to cater for the increased number and type of vehicle movements that would be generated which would be likely to affect the enjoyment and perception of safety of all users of the local highway network.

**16/00894/FUL – Lynch Lane Farm, Greenway Lane, Gretton**

44.13 This application was for the demolition of existing conservatory and single storey extension and the erection of a one and a half storey extension on the west elevation and a single storey extension on the south elevation (Revised scheme following approval of application 13/01065/FUL and refusal of application 15/00678/FUL). The Committee had visited the application site on Friday 21 October 2016.

44.14 The Chair invited the applicant's agent, Lydia Hall, to address the Committee. She clarified that the decision related only to the lean-to proposed to the side of the approved two storey extension; the two storey extension to the front of the house and the French windows in its gable end had already been approved via other permissions. Turning to the proposed extension, the Conservation Officer had commented that the accommodation needs of the applicant should be met within the constraints of the approved scheme. The Officer's report referred to the Inspector's comments on the previous scheme which had been dismissed at appeal earlier in the year; at no point in her decision letter did the Inspector state that no further additions should be made to the property. In her comments she referred to the width and shallow roof pitch of the fenestration of the previously proposed extension which were uncharacteristic of the building style of the area and would diminish the significance of the listed building. She was in total agreement with the Inspector that the previous scheme, which she was not agent for, had projected to a large degree from the side of the two storey extension; had a shallow roof pitch, uncharacteristic of the building; and large scale oak-framed fenestration, all of which would have constituted an entirely inappropriate addition to the building. The applicant and agent had worked hard to address the specific concerns raised by the Inspector in her letter and the revised extension was now only 1.3m in width and continued the steep roof pitch of the approved extension to create a catslide roof. In addition, the openings had been reduced to a minimum, as would be expected in a tertiary add-on of this nature. The extension now proposed was characteristic of the area with a steep roof pitch and high proportion of masonry to window openings. Furthermore, the form of the extension was entirely characteristic of what would be expected in a tertiary extension to a building such as this. As shown in the photograph on the Additional Representations Sheet, attached at Appendix 1, at least two examples of this type of extension already existed in the Gretton Conservation Area, the first on Lynch Lane Farmhouse itself and the other to the side of a building in the centre of the village. It was considered that the revised scheme had addressed the concerns raised by the Inspector in her assessment of the previous scheme; it was entirely

characteristic of the form of extension that would be expected on a building of this type; and it would preserve the character of the listed building and character and appearance of the Gretton Conservation Area. In light of this, she respectfully requested that Members support the proposal and grant permission for this minor addition.

- 44.15 The Chair indicated that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted. The proposer of the motion felt that it was a nice house with a number of less attractive additions tagged on. The applicant proposed to demolish the unsightly single storey extension and unsuitable conservatory and replace them with something far more authentic. In his view this proposal would enhance the building and would be in keeping with the area. The photographs included on the Additional Representations Sheet showed examples of local cottages with similar extensions, one of which was only 100m from the application house, and these additions had been part of the Cotswold vernacular for a long time. He drew attention to Page No. 335, Paragraph 5.11 of the Officer report, and noted that English Heritage's 2008 document 'Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment' set out that proposals should aspire to a quality of design and execution which may be valued now and in the future; he believed that the current proposal achieved that.
- 44.16 The Council's Conservation Officer explained that a substantial addition to the listed building had been negotiated in 2012 which had been further increased by a later application in 2014. A revised scheme for the demolition of the existing extensions and erection of a one and a half storey extension had been refused planning permission and listed building consent in 2015 and the subsequent appeals had been dismissed early in the year. At no point had any attempt been made to achieve the accommodation within the scope of what had already been permitted and the current proposal could not be seen in isolation from that which had previously been allowed. He did not dispute that it was characteristic of the Cotswold vernacular; however, this was not a true lean-to in the sense that it did not receive structural support from the outer wall which it abutted but projected through the wall and was reliant on modern engineering to span the opening involved. A fundamental principle of conservation was understanding and respecting the structural disciplines inherent in traditional buildings and he contested the argument that had been put forward that the minor addition respected the character of the area which was enshrined in its construction.
- 44.17 A Member concurred with the points made by the Conservation Officer and he felt that Members should respect the planning guidance and construction advice in respect of historic buildings. Personally, he would be voting against the proposal to permit the application on the basis that the previously granted planning permission should be sufficient for the applicant to achieve the accommodation required. Upon being put to the vote, it was
- RESOLVED** That the application be **PERMITTED**, subject to standard conditions in relation to materials and architectural details.
- 16/00895/LBC – Lynch Lane Farm, Greenway Lane, Gretton**
- 44.18 This application was for demolition of the existing conservatory and single storey extension and the erection of a one and a half storey extension on the west elevation and a single storey extension on the south elevation (Revised scheme following approval of application 13/01066/LBC and refusal of application 15/00679/LBC). The Committee had visited the application site on Friday 21 October 2016.

- 44.19 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to refuse consent and he sought a motion from the floor. It was proposed and seconded that the application be granted consent in line with the decision to grant full planning permission for the previous item. Upon being put to the vote, it was

**RESOLVED** That the application be **GRANTED CONSENT**, subject to standard conditions in relation to materials and architectural details.

**16/00911/FUL – PJ Nicholls, 3 Ashchurch Road, Tewkesbury**

- 44.20 This application was for the retention of a freestanding ATM and bollards.

- 44.21 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he invited a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

**16/00912/ADV – PJ Nicholls, 3 Ashchurch Road, Tewkesbury**

- 44.22 This application was for the retention of non-illuminated advertising vinyls on a freestanding ATM.

- 44.23 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to grant consent and he invited a motion from the floor. It was proposed and seconded that the application be granted consent in accordance with the Officer recommendation and, upon being put to the vote, it was

**RESOLVED** That the application be **GRANTED CONSENT** in accordance with the Officer recommendation.

**16/00932/FUL – 18 and 20 York Road, Tewkesbury**

- 44.24 This application was for the sub-division of the gardens of No. 18 and 20 York Road, erection of one bungalow to the rear of the existing dwellings and provision of associated vehicular access, driveway, parking and landscaping.

- 44.25 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. Upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

**16/00663/APP – Part Parcel 0085, Land West of Bredon Road, Tewkesbury**

- 44.26 This application was for reserved matters details of layout, scale, external appearance and landscaping for the development of 68 residential units along with public open space and associated drainage and highways infrastructure, pursuant to outline permission 14/00211/OUT.

- 44.27 The Chair invited Councillor Mike Sztymiak, Ward Member for Tewkesbury Town with Mitton, to address the Committee. Councillor Sztymiak indicated that flooding was a major issue for Tewkesbury and he raised concern that the applicant had only just confirmed that there would be no development in Flood Zone 3. He noted that there would be an encroachment into Flood Zone 2, as defined by the 12.93m AOD contour, and with increasingly erratic weather conditions and climate change, he felt that this level could easily be reached. A more likely situation was that water which would otherwise flood the site would be displaced once it had been developed and

would impact on properties further downstream. The applicant had failed to demonstrate a betterment regarding flood alleviation and there was no surface water storage on site. He sympathised with residents of the properties downstream which would suffer the effects of this development and he asked Members to refuse the application on the grounds that the applicant had failed to protect properties from flooding.

- 44.28 The Planning Officer clarified that outline planning permission had already been refused in 2014 but had subsequently been allowed on appeal. The Inspector had taken account of landscape and flooding at the time and considered that the development would be contained within Flood Zone 1. However, when the details had been submitted, the layout had showed that there would be a slight encroachment into Flood Zone 2 and that highways build out and raising of ground levels would occur within Flood Zone 3. This was considered to be unacceptable and the Environment Agency had objected to the application on that basis. Revised plans had subsequently been submitted which had clarified that the entire application site would lie outside of Flood Zone 3, however, there was a slight encroachment into Flood Zone 2 which was restricted to a narrow margin along the western boundary. Having reviewed the additional information, the Environment Agency was happy that there was no conflict with national planning advice and had withdrawn its objection.
- 44.29 A Member drew attention to the Additional Representations Sheet, attached at Appendix 1 to the report, which stated that ‘the applicant has now agreed to keep all development out of Flood Zone 3’ and she questioned whether that meant that the proposals had been altered since they had originally been submitted. She also noted that the consultation response from the Environment Agency referred to a number of surface water attenuation features being located within Flood Zone 3 and she questioned where they would be located in light of the additional information submitted. The Planning Officer explained that there had been some discrepancies in respect of the agreed flood zones and how they were applied to the site but these had now been resolved and the applicant had confirmed that there would be no development in Flood Zone 3. The surface water attenuation features would be dealt with in the discharge of the outline planning permission conditions. A Member indicated that he was deeply concerned with this response given the serious concerns about flooding in the area. He felt that more information about the proposed flood attenuation features should be available at this stage, and certainly before Members voted on the proposal. On that basis, it was proposed, seconded and

**RESOLVED** That the application be **DEFERRED** in order to obtain additional information regarding the proposed surface water attenuation features.

#### **16/00905/FUL – Land Between Brook Cottage and Riamble, Shurdington**

- 44.30 This application was for a proposed new dwelling and double garage in place of existing derelict farm buildings. The Committee had visited the application site on Friday 21 October 2016.
- 44.31 In response to a Member query regarding the site location plan, the Planning Officer clarified that the map was taken from the Council’s Uniform system, however, on the ground it had been clear that the building nearest to the boundary was not present. It was difficult to tell whether there were remnants of the previous building on the site as it was very overgrown and he was unsure when the building had been removed. Unfortunately the buildings had been incorrectly labelled on the plans and it had caused some confusion on the Committee Site Visit when Riamble had been pointed out. He clarified that the lawful use of the site was agricultural. The Member noted from Page No. 359, Paragraph 5.3 of the Officer report, that development within the Green Belt should only be permitted in certain exceptional



circumstances. In her view the proposed development was infilling but she could find no sound definition of that within the National Planning Policy Framework and planning law aside from 'development of a relatively small gap' which she felt was open to interpretation. The Development Manager confirmed that the National Planning Policy Framework limited infilling to villages and it would be difficult to suggest that the property in question was within a village.

- 44.32 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted. The proposer of the motion was of the view that it would remove an otherwise derelict building and replace it with an attractive house. He noted that six new homes had been permitted at Badgeworth Nurseries which was only 0.5 miles from the site and located within the Green Belt. The replacement dwelling would have a similar footprint to the buildings which would be removed and there would be two large houses on either side. The Development Manager explained that the National Planning Policy Framework stated that inappropriate development within the Green Belt should not be permitted unless there were very special circumstances. This was part of the Council's existing and emerging policy, as well as national policy, due to the critical importance of maintaining the openness of the Green Belt. Whilst there were examples of very special circumstances whereby inappropriate development could be permitted, the onus was on the applicant to put those forward for consideration, however, no planning statement had been included with the application and no additional material had been submitted since the publication of the Officer report. The Badgeworth Nurseries application referenced by the proposer of the motion had initially been refused by the Planning Committee which had eventually been persuaded that there were very special circumstances to permit the application when it had been amended to include affordable housing. That was a very different site and he reminded Members that each application must be determined on its own merits.
- 44.33 During the debate which ensued, a Member indicated that he could not support the proposal for the reasons outlined by the Development Manager. If Members permitted the application it would be akin to throwing the planning rulebook out of the window and he felt that Paragraph 6.3 of the Officer report told Members all they needed to know 'As well as harm by reason of inappropriateness, the introduction of a substantial residential dwelling with a detached garage in the rural landscape fails to respect the openness of the Green Belt and the rural landscape'. Another Member indicated that it had appeared to him on the Committee Site Visit that the proposal would infill the gap between two existing houses. There were open Green Belt views all the way around the site and at the end of the lane and the site plan at Page No. 361/C showed that it would be shielded from the lane at the front by substantial trees with the only opening being the proposed driveway. The dwelling itself would be set back within the site and he could not understand the objection given the proposal and the site location. A Member indicated that she could not see how the proposal would have an adverse impact on the Green Belt considering the redundant buildings and overgrown nature of the site currently; in her view the application would be an improvement. A Member agreed that it would be a very nice site for a new dwelling, however, rules had been made regarding building in the Green Belt and they should be followed without exception.
- 44.34 A Member sought clarification as to the size of the proposed dwelling and was advised that the highest ridge point would be 9.24m and the eaves would be 5.46m. It had not been possible to ascertain the height of the existing buildings but it was thought that they would be much lower than what was proposed. The main point was that the scale of the dwelling was significantly greater in terms of height and dominance of the width of the plot as opposed to what was originally on the site. A Member questioned whether Officers would look more favourably at a smaller

dwelling and, in response, the Development Manager explained that this application was unacceptable both in principle and due to its size and scale and impact on the openness of the Green Belt. It was clear that the existing site needed tidying up but that should not be a reason to permit the application as it may encourage others to neglect their land in the hope that they would be permitted to develop it in a similar way. The Chair indicated that he felt compelled to speak as the proposed dwelling would be completely out of context in this rural location due to its size and scale and it would not be recommended for permission even if it was not located within the Green Belt. He was disappointed that Members would consider it acceptable to build a house on the site and indicated that he would be voting against the proposal to permit. Upon being put to the vote, the motion to permit the application was lost. It was subsequently proposed and seconded that the application be refused in accordance with the Officer recommendation and, upon being taken to the vote, it was

**RESOLVED** That the application be **REFUSED** in accordance with the Officer recommendation.

#### **16/00626/FUL – 21 Station Road, Bishop’s Cleeve**

- 44.35 This application was for the erection of a double garage. Members noted that it had been deferred by the Planning Committee on 30 August 2016 for Officers to seek to negotiate the lowering of the applicant’s boundary wall to improve visibility at the junction of Sandown Road and Station Road and to consult with Gloucestershire County Highways.
- 44.36 The Planning Officer advised that the applicant’s stone boundary wall was not located within the visibility splay of the proposed new garage access and therefore, whilst the lowering of the wall might provide some general improvement to the visibility for users of Sandown Road and Station Road, it was not required in order to make the current proposal acceptable in highway safety terms. Nevertheless, following deferral of the application, the applicant had indicated that he would be prepared to lower the wall in accordance with Members wishes on the proviso that he be allowed to set the garage further forward on the plot. The siting of the garage was an important consideration and Officers had negotiated the position so that it would be set back slightly from the building line established by the neighbouring property in order to reduce its prominence in the streetscene. The Officer recommendation to permit the application was on the basis of this revised siting and it was considered that this should remain unchanged, without a condition requiring the lowering of the wall.
- 44.37 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application, subject to the additional condition recommended by County Highways to require 45 degree visibility splays either side of the access being maintained free from any obstruction above 600mm in height in perpetuity, and he invited a motion from the floor. It was proposed and seconded that authority be delegated to the Development Manager to permit the application with the garage set further forward of the building line, as requested by the applicant, subject to a condition to require the lowering of the boundary wall to improve visibility at the junction of Sandown Road and Station Road. The seconder of the motion indicated that the problems with the junction had been ongoing for some 20 years and he felt that moving the garage forward slightly was an acceptable compromise given the improvement which would be made to road safety by lowering the wall. The Development Manager clarified that the position of the garage was important in terms of its impact on the character and appearance of the area and its presence in the streetscene; it was not a residential amenity issue in terms of the neighbouring properties. A Member queried whether it would be necessary to re-consult on revised plans should the proposal for a delegated permission be accepted. The Planning Officer reiterated that the garage had been

further forward in the plot in the original application and those plans had already been consulted upon. Officers had negotiated the set-back position and revised plans had been submitted accordingly. On that basis it was considered that there was no requirement to re-consult. The proposer of the motion indicated that the lowering of the wall would benefit everyone on the estate and he urged Members to balance the impact on the streetscene against road safety. Upon being taken to the vote, it was

**RESOLVED** That authority be **DELEGATED** to the Development Manager to **PERMIT** the application with the garage set further forward of the building line, as requested by the applicant, subject to a condition to require the lowering of the boundary wall to improve visibility at the junction of Sandown Road and Station Road.

**16/00890/FUL – The Croft, Butts Lane, Woodmancote**

- 44.38 This application was for a replacement dwelling and revised vehicular access. The Committee had visited the application site on Friday 21 October 2016.
- 44.39 The Chair invited John Everitt to address the Committee. Mr Everitt explained that he was representing Coombes Everitt Architects, the architects for the scheme being considered. The application was for a replacement dwelling on the site of a property that was in a poor state of repair. Their clients came from the area and were married in St Michael and All Angels Church which the site overlooked; this was a key factor in them deciding to purchase the site. During the development of the scheme, the architects had engaged with the local authority via its pre-application process and, as well as submitting initial design proposals for comment, had met with the Planning Officer and Conservation Officer on site to discuss the principle of the replacement dwelling; siting; design; and revised access. It had been agreed that the repositioning of the property further into the site, and therefore further from the neighbour's property, was a positive step. In relation to the Area of Outstanding Natural Beauty, the proposed property being set at a lower level and eaves height than the existing building meant that it would have less visual impact. Following the meeting, the scheme had been developed and an application submitted which included all of the required supporting reports necessary for the local authority to determine the application. This included an ecology report, which identified that there were no protected species which would be affected by the proposed development, and a site plan identifying the tree works to be undertaken. As a result of this positive engagement, the scheme was being supported by the Case Officer and was recommended for permission. The site was accessed along a private right of way and there had been an objection to the scheme from the owner of Bishop's Leys Farm in that regard. This point had also been raised by the Parish Council, however, other residential properties were accessed further along the path and this was a legal matter as opposed to a planning concern. At the time of purchasing the site, the applicant's solicitor had obtained a statutory declaration from the vendor's family 'Based upon the declaration made by Geoffrey Humphreys on 30 March 2016 it seems clear to me that the access way (or at least part of it) has been used continuously to access the Croft and the whole of the access way to maintain the hedgerows since his family first purchased the land in 1969'. As such, the applicant's solicitor had advised that the land now benefited from a prescriptive easement, meaning a prescriptive right of way over the access way to both access the land and maintain the hedgerow. County Highways had not raised any objection and a condition had been included to control the construction vehicles related to the site in order to help mitigate the concerns of the neighbour. Furthermore, the applicant had provided assurance that he would make good any damage caused to the lane during the course of the works. Officers were recommending permission and he hoped that the Committee would also be supportive of this subtle and considered scheme.

- 44.40 The Chair indicated that the Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

**RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

**16/00936/FUL – 2 Crifty Craft Lane, Churchdown**

- 44.41 This application was for a first floor extension (resubmission following applications 15/00431/FUL, 13/01252/FUL and 13/00637/FUL).

- 44.42 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

**RESOLVED** That the application be **PERMITTED** in accordance with the Officer recommendation.

**16/00916/TPO – 8 Stoke Park Close, Bishop's Cleeve**

- 44.43 This application was to lift the crown of a row of Hornbeam trees at the side of No. 8 Stoke Park Close.

- 44.44 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to grant consent and he sought a motion from the floor. It was proposed and seconded that the application be granted consent in accordance with the Officer recommendation and, upon being put to the vote, it was

**RESOLVED** That the application be **GRANTED CONSENT** in accordance with the Officer recommendation.

**16/00739/APP – Homelands 2, Bishop's Cleeve**

- 44.45 This was a reserved matters application for 113 residential dwellings (use class C3), public open space, allotments, road and drainage infrastructure in Phase 3C of the outline planning permission for Homelands 2 (10/01005/OUT).

- 44.46 The Chair invited Dan Trundle to address the Committee. Mr Trundle indicated that he was speaking on behalf of Linden Homes which had prepared and submitted the final reserved matters application for its development, Cleeve View. This phase of the development was the final parcel of the wider scheme and had been worked up in consultation with Planning Officers to ensure that it delivered the principles of the outline masterplan and design code. It was a continuation of previous phases and would be managed by the housing association, Bromford. Each house had been allocated at least two parking spaces, with the majority having the benefit of on-plot driveway and garages. Four one bedroom apartments near the new local centre would have one dedicated space each. The internal estate roads would be able to accommodate informal on-street parking and would have a number of demarcated spaces for visitors. The approval of this last reserved matters application for Homelands would enable Linden to move forward with certainty and continue its build on site.

- 44.47 The Planning Officer advised that there were two reasons for the delegated approval recommended by Officers, one of which related to highways. County Highways was currently extremely busy and it was taking time for consultation responses to be received; whilst he had spoken to County Highways the previous day and

established that the revised plans had addressed the concerns regarding vehicle tracking etc., the matter remained delegated until a formal response was received. The second issue related to landscaping and minor amendments to proposed hedge and tree planting. The Landscape Officer had spoken to the applicant and was expecting revised plans so this also remained delegated at this stage. A Member raised concern that the double bend was quite dangerous and she queried whether it would be possible to ensure that the road was kept clear of mud during construction. The Planning Officer explained that the development must be constructed in accordance with the construction method statement submitted with the outline consent; whilst it would not be possible to eliminate all mud from the highway, there was a condition to fall back on if it did become a problem. A Member sought assurance that the problems with parking experienced in some of the other new estates in Bishop's Cleeve would not be repeated here. The Planning Officer recognised that there had historically been issues with parking on other estates in the area but those had been granted planning permission in a different policy context with maximum standards of parking as opposed to minimum. The last Homelands application for reserved matters approval had contained significantly more parking provision than the previous phases and the parking plan for this application showed that all properties aside from the one bed apartments would have a minimum of two parking spaces. County Highways was considering the application in detail which was one of the reasons for the delegated recommendation. In response to a query regarding bin storage, the Planning Officer explained that this had been considered as part of the application and the plans showed where the bins would be stored for each part of the site. Muster points would be used for areas which could not be accessed by refuse vehicles.

- 44.48 The Chair advised that the Officer recommendation was to delegate authority to the Development Manager to approve the application, subject to confirmation of the acceptability of the proposed highway layout, landscape details and other conditional requirements, and to allow for the extended consultation period relating to the revised plans, and he sought a motion from the floor. It was proposed and seconded that authority be delegated to the Development Manager to approve the application in accordance with the Officer recommendation. Upon being put to the vote, it was

**RESOLVED** That the application be **APPROVED**, subject to confirmation of the acceptability of the proposed highway layout, landscape details and other conditional requirements, and to allow for the extended consultation period relating to the revised plans.

**PL.45 DEVELOPMENT CONTROL - APPLICATIONS TO THE COUNTY COUNCIL**

45.1 The following decisions of Gloucestershire County Council were **NOTED**:

<b>Site/Development</b>	<b>Decision</b>
<p>16/00761/CM Land at Shurdington Road Shurdington</p> <p>Variation of condition 2 of planning permission reference 07/0016/TWMAJM, granted on 22/08/2007 [for sand extraction and ancillary development with restoration back to original levels by infilling with inert material], to permit the extraction of sand until 31 October 2016 and restoration of the site by 31 August 2018.</p>	<p>Application <b>PERMITTED</b> subject to conditions relating to commencement of the development; duration; working programme, phasing and direction of working; permitted development; removal of plant and machinery; hours of working; noise, lighting; water protection and pollution; access, traffic and protection of the highway; landscaping; restoration; and aftercare, for the following summary of reasons:</p> <p>The Mineral Planning Authority considers that the time delay is justified if the remaining useful mineral resource can be extracted over the course of the next few months and a satisfactory restoration scheme can still be secured, even if delayed by 2 years. The site is not considered to be visually prominent and there are no overriding biodiversity reasons why the restoration would negatively impact in terms of biodiversity interest on the site.</p> <p>The extraction of mineral is an acceptable form of development in the Green Belt which does not cause any material harm and is in accordance with Paragraph 90 of the National Planning Policy Framework. The proposal will facilitate an acceptable restoration of a Green Belt site to an agricultural after-use in accordance with Policy E9 of the Minerals Local Plan. The Mineral Planning Authority considers that any adverse potential pollution effects can be mitigated through appropriate planning conditions in accordance with Policy DC1 of the Minerals Local Plan and there are no material considerations that indicate that the application should be refused.</p>

16/01000/LA3  
Cheltenham West Community  
Fire Station  
Tewkesbury Road  
Uckington

Application **PERMITTED** subject to conditions relating to the commencement and scope of development for the following summary of reasons:

Extension to existing fence.

With the detailed planning conditions attached the detailed design, scale and character are considered acceptable and appropriate given its location. There are not considered to be any unacceptable adverse impacts on neighbouring amenity or on the openness of the Green Belt arising from the development. The fence will contribute to minimising the noise generated by operational activities of the Fire Service. The development accords with national and local planning policy and guidance.

#### **PL.46 CURRENT APPEALS AND APPEAL DECISIONS UPDATE**

46.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 16-23. Members were asked to consider the current planning and enforcement appeals received and the Department of Communities and Local Government appeal decisions issued.

46.2 It was

**RESOLVED** That the current appeals and appeal decisions update be **NOTED**.

#### **PL.47 ADVANCED SITE VISITS BRIEFING**

47.1 Attention was drawn to the Advanced Site Visits Briefing, circulated at Page No. 24, which set out those applications that had been identified as ones which would be subject to a Committee Site Visit on the Friday prior to the Planning Committee meeting at which they would be considered. Members were asked to note the applications contained within the briefing.

47.2 It was

**RESOLVED** That the Advanced Site Visits Briefing be **NOTED**.

The meeting closed at 11:40 am

## Appendix 1

**SCHEDULE OF PLANNING APPLICATIONS**  
**ADDITIONAL REPRESENTATIONS**

Date: 25 October 2016

The following is a list of the additional representations received since the schedule of applications was prepared and includes background papers received up to and including the Monday before the Meeting.

A general indication of the content is given but it may be necessary to elaborate at the Meeting.

Page No	Item No	
312	1	<p><b>16/00241/FUL</b></p> <p><b>Land Parcels 7946 &amp; 9067, 300087 Walton Cardiff Road to Newtown Farm Ashchurch</b></p> <p><b>Consultations &amp; Representations:</b></p> <p>Stoke Orchard and Tredington Parish Council: Continues to raise concerns in relation of flood management and SuDS, transport infrastructure, air pollution and quality of life of residents.</p> <p>Ashchurch Rural Parish Council has requested that the attached statement is circulated to Members, <b>please see below.</b></p> <p>County Highways Authority has provided a summary sheet, <b>please see attached below.</b></p> <p>Gloucester Land Company has raised the following additional points:</p> <ul style="list-style-type: none"> <li>– concerns about highway safety matters;</li> <li>– concerns about a number of planning conditions specifically Condition 4 which begins with, "Unless otherwise agreed in writing". It is suggested that this would allow or invite the developers to vary parts of the condition; however, this is not the case and any material deviation from the limits of the conditions would require consideration through a new planning application.</li> </ul> <p>Nine additional letters of objection received raising the following points beyond which have been considered in the Planning Committee report:</p> <ul style="list-style-type: none"> <li>– Reference is made to a large number of past planning applications in the Fiddington area and comparisons made with the proposed development; however, none are directly comparable to the proposed development and, nevertheless, each application must be considered on its own merits.</li> <li>– Concern has been raised regarding the impact of the development on property prices; however, this is not a material planning consideration.</li> <li>– It is also pointed out that government is currently carrying out a review of support for Anaerobic Digestion (AD) and micro-combined heat and power under the feed-in tariffs scheme. The feed-in tariffs for AD developments may change and this would mean that the proposed development is unlikely to benefit from such subsidies. It is suggested that this indicates the direction of travel of central government away from supporting proposals such as that proposed. It must, however, be acknowledged that the review of tariffs is ongoing. In addition the review seeks to target those parts of the industry which were not viable without benefiting from feed in tariffs. It found large AD</li> </ul>



		<p>development (although relating to waste inputs) to be viable without tariffs and therefore the case to continue allowing such subsidies at the expense of the tax payer would not be justified. Clearly central government has to focus feed-in tariffs as they see fit at the time and the potential lack of feed-in tariffs for the proposal does not automatically mean it is not an acceptable form of renewable energy.</p> <ul style="list-style-type: none"> <li>– It is also suggested that the proposed development should be located within an urban area or industrial estate; however, one of the important factors is the feedstock inputs. In this case it is reliant on agricultural produced inputs hence the requirement for a rural location.</li> <li>– Reference has also been made to the AD Plant at Wingmoor Farm, and the need for an Environmental Impact Assessment; however, each application must be assessed on its own merits. It is relevant that Wingmoor Farm was part of a larger site and the cumulative environmental impact would have had to be considered, in addition the site constraints are likely to have been different.</li> </ul> <p>One additional letter of support received raising no additional points which are not already included within the Committee report.</p> <p>Lawrence Roberson MP - Objects to the proposal for the following reasons:</p> <ul style="list-style-type: none"> <li>– Proposal would be detrimental to highway safety.</li> <li>– The development would have an adverse impact on air quality.</li> <li>– The development would be detrimental to the rural landscape.</li> <li>– Likely to have a harmful impact on archaeology.</li> </ul>
331	2 & 3	<p><b>16/00894/FUL &amp; 16/00895/LBC</b></p> <p><b>Lynch Lane Farm, Greenway Lane, Gretton</b></p> <p>Representation received from applicant's agent, <b>attached below.</b></p>
351	7	<p><b>16/00663/APP</b></p> <p><b>Part Parcel 0085, Land West of Bredon Road, Bredon Road, Tewkesbury</b></p> <p><b>Consultations &amp; Representations:</b></p> <p>Environment Agency - Having reviewed the additional information submitted, the Environment Agency is now in a position to remove its objection to the application. This is because the applicant has now agreed to keep all development out of Flood Zone 3. Furthermore the 13.11mAOD Flood Zone 3 contour is shown on the revised plans which was established at the time of the outline permission granted at appeal.</p> <p>Landscape - An updated arboricultural assessment has recently been submitted and has been assessed by the Landscape Officer. Discussions on the submitted landscape information are still ongoing.</p> <p>Highways - The agent has submitted additional highway information including tracking layouts and a response to queries on the Road Safety Audit. The comments of County Highways on the latest information submitted are still awaited.</p>

		<p><b>Officer comments</b></p> <p>Revisions have been made to the proposed boundary treatments to address the concerns raised by the Urban Design Officer and as such <b>Condition 3 is proposed to be amended as follows:</b></p> <p>The approved boundary treatments shall be implemented in accordance with a timetable of works to be submitted to and approved by the Local Planning Authority.</p> <p>Condition 1 to be updated to include plan: 8251 PL04 Rev H.</p> <p>Additional note to be included:</p> <p><b>Note 2</b> - The outline conditions satisfied in this application include Conditions 1, 8, 21 and 23.</p> <p>Given that discussions are still ongoing with the Landscape Officer, and that comments are awaited from County Highways, it is still recommended that authority be <b>delegated to the Development Manager to permit the application to ensure that the issues raised in respect of landscaping and highways are fully addressed.</b></p>
362	9	<p><b>16/00626/FUL</b></p> <p><b>21 Station Road, Bishops Cleeve</b></p> <p>In response to Members' request, the County Highways Authority has now provided a bespoke response to the application. It concurs with the conclusions set out in the Officer's report and raises no objection. A condition is recommended to require 45 degree visibility splays either side of the access maintained free from any obstruction above 600mm in height in perpetuity. <b>The response is attached in full below.</b></p> <p>The applicant has written to the Planning Committee making the following comments:</p> <p><i>"As the Committee is already aware, the Parish Council requested that the application be deferred, requesting the Planning Officers to ask me to modify the stone wall at my own expense including loss of garden space all to improve visibility at the junction between Station Road and Sandown Road.</i></p> <p><i>I would respectfully point out that the alterations to the wall at this junction were not requested by the Glos. Highways Department, neither did they form any part of the planning application.</i></p> <p><i>This seems to me that we have an ideal opportunity to agree a solution to solve a long standing safety issue which also aligns with the Parish Councils recommendations and I am therefore willing to carry out this work which will benefit the local community considerably.</i></p> <p><i>In return, please can I ask the Committee and Planning Officers to consider the proposed siting of the garage. This has already been amended to address concerns raised relating to the front elevation of the garage to line up with the existing 2.2 metre high stone boundary wall to the bungalow at No.3 Sandown Road. This wall already projects a metre in front of this bungalow.</i></p> <p><i>Additionally, I am not aware of any objections to this scheme from neighbours or members of the public."</i></p>

**Additional Highways Condition:**

The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 4.5m back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level.

Reason:- To reduce potential highway impact by ensuring that adequate pedestrian visibility is provided and maintained and to ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with the National Planning Policy Framework.

**Item 1 - 16/00241/FUL**

Ashchurch Rural Parish Council (Page 1 of 2)

5 Facts or points for discussion.

Position, Size, highways and Validity

**Position.** The applicant stated at all of their presentations that the plant had to be there because the gas pipe runs under the site. It does. The gas pipe also runs into Wales via Tirley from Fiddington and on through Teddington to Stratford on Avon. So lots of other sites suitable for an AD plant with better highway access for HGV 's and still in the same catchment area.

The AD plant at Stoke Orchard, on the Land Fill Site, taps into the gas pipe running down the Stoke Road, just a normal supply gas pipe. So the AD plant could be sited anywhere where there is a normal suitable gas pipe supply. Fiddington has no gas pipe network for domestic use. Fiddington will not actually benefit by the gas being produced here.

The site is in open country side, at least 6 planning applications, in this locality, in recent years for various building projects have been refused, the prime objection being in open countryside.

**Size .** This project is big, it is longer than Tewkesbury High street, from the cross to the King John s Bridges, and wider than all the buildings on either side of the high street. The 3 domes and holding tanks will be upto 18.5mts high or 54 ft in old money, taller than a 6 story block of flats. As the landscape officer states in his report it is more industrial than agricultural that will cause harm to the local community due to the scale, form and proximity, exerting an adverse impact upon landscape character.

**Highways.** The NPPF promotes sustainable transport by protecting vulnerable road users. Gloucestershire County Highways have produced a report, to demonstrate that mitigation works, widening down the length of the lanes, piping ditches, removing grass verges and some hedges, will allow the 15,500 tractors movements annually, to pass each other to and from the plant. At no point in the report does it confront the issue for vulnerable road users, the many cyclists, pedestrians and horse riders using the lanes for work and leisure. GC highways has stated that a safe width can be achieved throughout the lanes, which will remove most grass verges and any refuge for vulnerable users,. The governments Manual for street plan of 2007 and the TA46/97 of 1997 states that highways with HV presence should have a road width of at least 6mts.Both bridges on the routes, over The Tirlebrook and The Swillgate have fixed widths of 5.5mts.

**Validity.** For this to warrant consideration as sustainable, eco-friendly and carbon neutral, the applicant needs to prove that it is, the applicant has not. Despite numerous requests from the Parish council and local residents, to supply 'A carbon footprint assessment for the lifetime of the plant' they have not.

**Item 1 - 16/00241/FUL**

Ashchurch Rural Parish Council (Page 2 of 2)

Ecotricity have stated that this plant will produce Methane gas (55%) which will be pumped into the gas main and Carbon dioxide (45%) which will be released directly in to the atmosphere. Along with the exhaust gases from the tractors travelling upto 12,000kms a week requires the carbon footprint assesment.

Various experts have raised concerns at the viability of feedstock supplies in the long term.

Most AD plants that are ecofriendly and carbon neutral use material sourced close to the plant, ie on farms using slurry and other farm wastes, very low transport distances.

The governments incentives for AD plants was driven by a need to produce sustainable energy, reduce our carbon emissions and reduce our EU tax on land fill.

Aimed at food producers, primarily farmers, growers, and food manufacturers/retailers. Farmers and growers to have medium sized AD plants, below 50,000 ton annually producing energy for their needs and selling back surplus to the grids.

Independent energy suppliers to take food waste from manufacturers and retailers at land fill sites and build the larger sized AD plants, like the land fill site at Stoke Road and Pershore and the growers waste at Evesham Growers. The government intention is not to encourage independent energy suppliers to take land out of food production to feed AD plants and is now removing these incentives.

**Item 1 - 16/00241/FUL**  
County Highways Authority

**Highways Development Management**

**Highway Response Summary Sheet**

***PLANNING REFERENCE:***

16/00241/FUL

***DESCRIPTION OF DEVELOPMENT:***

Erection of biomass-based anaerobic digestion facility and associated works.

***DESCRIPTION OF IMPACT AND MITIGATION:***

The existing transport network will not be able to safely accommodate the traffic likely to be generated by the proposed development due to its limited carriageway width and limited visibility. Without suitable improvements, the Local Highway Authority would object to the proposal. However, in the opinion of the LHA this impact can be adequately mitigated through the introduction of the following improvements:-

- a). road widening on Fiddington Lane between the A46 and Tredington Road;
- b). road widening on Walton Cardiff Road between the site and Fiddington Lane
- c). road widening on Tredington Road between its junctions with Fiddington Lane and the A38; and
- d). road widening and increased visibility splays at the Walton Cardiff Road / Fiddington Lane junction.

In addition to these works there is a concern over the ability of the largest vehicle (articulated tanker) to make the movement from southbound on the A38 in to Tredington Road due to the position of the stop line on Tredington Road and therefore stationary traffic. Consideration of moving the stop line has been given however a better solution is considered to be a routing strategy for the affected vehicles which can be included in the Traffic Management Plan.

Without these improvements, the LHA would consider the impact to be unacceptable.

***RECOMMENDATION:***

No highway objection is raised subject to the appropriate conditions and planning obligation being attached to make the development acceptable.

***REASON FOR RECOMMENDATION:***

Whilst the existing transport network would be unable to safely accommodate the development traffic, with suitable mitigation, the impact will be acceptable.

Items 2 & 3 – 16/00894/FUL & 16/00895/LBC

**16/00894/FUL & 16/00895/LBC - Lynch Lane Farmhouse, Gretton**  
**Additional information for Planning Committee Meeting, 25/10/16**

//



**Photo 1**

Existing lean-to extension with catslide roof to the front of Lynch Lane Farmhouse.

This form of extension has already been carried out in the past on the property and is thus characteristic of the way in which such buildings have been traditionally extended.



**Photo 2**

An example of another lean-to extension of a similar scale to that proposed - found on another property in the centre of Gretton village (next to the school).





## Highways Development Management

Shire Hall  
Gloucester  
GL1 2TH

Matthew Tyas  
Tewkesbury Borough Council  
Council Offices  
Gloucester Road  
Tewkesbury  
Gloucestershire  
GL20 5TT

email: richard.jefferies@gloucestershire.gov.uk

Please ask for: Richard Jefferies

Our Ref: T/2016/036974

Your Ref: 16/00626/FUL

Date: 5 October 2016

Dear Matthew Tyas,

### TOWN AND COUNTRY PLANNING ACT 1990 HIGHWAY RECOMMENDATION

**LOCATION:** 21 Station Road Bishops Cleeve Cheltenham Gloucestershire GL52 8HH  
**PROPOSED:** Erection of a double garage

I refer to the above planning application received 19th September 2016 submitted with application form, Site/Block plan ref;CB1, Elevations/Floor plan ref;CB5(B), Sections/Landscaping plan ref;CB6(A) and Site survey ref; 21STA.RD/01.

#### Proposal

The applicant proposes the erection of a double garage on the land of 21 Station Road.

#### Location

The dwelling sits adjacent to the classified Station Road a class 3 highway subject to a 30 mph speed limit and the proposed double garage will be adjacent to the Sandown Road a class 4 highway also subject to a 30 mph speed limit. The development is approximately 70m from the nearest bus stop offering services which connects residents to Cheltenham and Gloucester. The dwelling is bounded by residential development either side and to the rear. Station Road and Sandown Road are both two way working with street lighting and pedestrian footways. The area is well accessible to local amenities such as post offices, shops and schools within a 300m proximity.

#### History

No incidents have been reported in the vicinity of this dwelling in the past five years. There have been previous applications from this dwelling but no refusals on a highway basis.

#### Access & Width



**Item 9 – 16/00626/FUL**  
County Highways Authority (Page 2 of 2)

The development is proposed to be accessed from a single point off of the Sandown Road. The proposed access is considered adequate to accommodate a large saloon car which I consider acceptable.

**Visibility**

No speed survey has been undertaken, therefore at a standard 2.4m emergence set back, the recommended visibility splay distance for an access in a 30 mph speed limit will be 54m. I can confirm that visibility in excess of 90 metres can be achieved from the proposed access looking left (north) up Sandown Road and 22 metres can be achieved looking right (south) down Sandown Road to the junction with Station Road. Sandown Road and Station Road are both subject to a 30 mph speed limit whereby the 'deemed to satisfy' visibility standard is 54 metres. It is noted that the south splay would be partially obstructed by a low post and rail fence, however this is not a solid enclosure and views can be easily gained through it. Furthermore, due to the topography of the area the proposed access drive is at a higher level than Station Road which would further help with visibility.

**Note**

The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Amey Gloucestershire on 08000 514 514 or [gcchighway@amey.co.uk](mailto:gcchighway@amey.co.uk) before commencing any works on the highway.

I refer to the above planning application received on 19th September 2016 submitted with application form, Site/Block plan ref;CB1, Elevations/Floor plan ref;CB5(B), Sections/Landscaping plan ref;CB6(A) and Site survey ref; 21STA.RD/01.

**I recommend that no highway objection be raised subject to the following condition(s) being attached to any permission granted:-.**

The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 4.5m back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level.

Reason:- To reduce potential highway impact by ensuring that adequate pedestrian visibility is provided and maintained and to ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with the National Planning Policy Framework.

**Statement of Due Regard**

Consideration has been given as to whether any inequality and community impact will be created by the transport and highway impacts of the proposed development. It is considered that no inequality is caused to those people who had previously utilised those sections of the existing transport network that are likely to be impacted on by the proposed development.

It is considered that the following protected groups will not be affected by the transport impacts of the proposed development: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, other groups (such as long term unemployed), social-economically deprived groups, community cohesion, and human rights.

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Planning Committee
<b>Date of Meeting:</b>	22 November 2016
<b>Subject:</b>	Review of Protocol for Councillors and Officers Involved in the Planning Process
<b>Report of:</b>	Sara Freckleton, Borough Solicitor
<b>Corporate Lead:</b>	Sara Freckleton, Borough Solicitor
<b>Lead Member:</b>	Councillors D M M Davies, Lead Member for Built Environment and R J E Vines, Leader of the Council
<b>Number of Appendices:</b>	2

<p><b>Executive Summary:</b></p> <p>At its meeting on 14 April 2015, the Council considered a revised Protocol for Councillors and Officers Involved in the Planning Process and resolved that the Protocol be adopted with a review after 12 months. A Standards/Planning Working Group met in September 2016 to conduct the review and proposed two main changes to Section 6 – Planning Committee Site Visits, together with minor typographical and formatting amendments. The Planning Committee is asked for its comments on the proposed amendments prior to the revised Protocol being considered by the Standards Council at its meeting on the afternoon of 22 November 2016 and Council at its meeting on 6 December 2016.</p>
<p><b>Recommendation:</b></p> <p><b>To CONSIDER the proposed amendments to the Protocol for Councillors and Officers Involved in the Planning Process and to put forward any comments for consideration by the Standards Committee at its meeting on 22 November 2016 prior to the revised Protocol being taken to the Council meeting on 6 December 2016.</b></p>
<p><b>Reasons for Recommendation:</b></p> <p>In accordance with the Council decision to review the Protocol for Councillors and Officers Involved in the Planning Process.</p>

<p><b>Resource Implications:</b></p> <p>None arising directly from this report.</p>
<p><b>Legal Implications:</b></p> <p>None other than those referred to in the report.</p>
<p><b>Risk Management Implications:</b></p> <p>None.</p>

**Performance Management Follow-up:**

None.

**Environmental Implications:**

None.

**1.0 INTRODUCTION/BACKGROUND**

**1.1** At its meeting on 14 April 2015, the Council considered a revised Protocol for Councillors and Officers Involved in the Planning Process and resolved that the Protocol be adopted with a review after 12 months.

**1.2** The initial review was undertaken by a joint Working Group made up of four Members of the Planning Committee and four Members of the Standards Committee and it was suggested that a similar arrangement be put in place to examine how the new Protocol had worked after being operational for 12 months, and whether any further amendments were required. The Standards and Planning Committees re-established a Working Group comprising Members of both Committees at their meetings in March and April 2016 respectively.

**2.0 REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS**

**2.1** The Standards/Planning Working Group met in September 2016 to conduct the review and agreed that two main changes were necessary in respect of Section 6 – Planning Committee Site Visits.

**2.2** Section 6 had been amended considerably during the last review with the whole Committee now attending the Committee Site Visits which took place in advance of the meeting. One of the issues which had been discussed at length previously was whether Parish Councils should continue to be invited to Committee Site Visits. At that time it had been agreed that they should be allowed to attend on the basis of their local knowledge in order to highlight any factual information relevant to the site visit. Unfortunately, this had often continued to be misconstrued as an opportunity to express a view and resulted in a perception that the process was not open or transparent given that no other representatives were permitted to attend Committee Site Visits. Parish Councils now had an opportunity to express their views through the Scheme for Public Participation at Planning Committee, which had been established as a permanent arrangement at the Council meeting in May 2016 following a 12 month trial period, and the Working Group had agreed that this was the most appropriate way for them to engage transparently with the process.

**2.3** Currently, those applications where it had been determined that an advance site visit would be appropriate were required to be set out within an 'Advance Site Visits Briefing' item on the Planning Committee Agenda each month. This was not something which had worked particularly well in practice and the Working Group had considered it to be an unnecessary administrative burden which was no longer required now that Members were comfortable with the arrangements for Committee Site Visits.

- 2.4** In addition to these two main changes, minor amendments were also proposed in order to address typographical errors and formatting throughout the Protocol. A final version of the proposed revised Protocol is attached at **Appendix 1**, with a version showing the track changes set out at **Appendix 2**.
- 2.5** Members of the Planning Committee are asked to consider the proposed amendments and to put forward any comments for consideration by the Standards Committee which meets on the afternoon of 22 November 2016 and will be responsible for recommending any revisions to the Protocol to the Council at its meeting on 6 December 2016.
- 3.0 OTHER OPTIONS CONSIDERED**
- 3.1** None.
- 4.0 CONSULTATION**
- 4.1** All Members were sent an email inviting their comments on the Protocol prior to the Working Group meeting but no responses were received.
- 5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**
- 5.1** Tewkesbury Borough Council Code of Members' Conduct (adopted 26 June 2012 taking effect 1 July 2012).
- 6.0 RELEVANT GOVERNMENT POLICIES**
- 6.1** None directly relevant to this report.
- 7.0 RESOURCE IMPLICATIONS (Human/Property)**
- 7.1** None arising directly from this report.
- 8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 8.1** None.
- 9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 9.1** None.

## **10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

**10.1** Council - 14 April 2015

Standards Committee - 21 March 2016

Planning Committee - 12 April 2016

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**Background Papers:** Council Report and Minutes – 14 April 2015.

**Contact Officer:** Sara Freckleton, Borough Solicitor  
01684 272011 [Sara.Freckleton@teWKesbury.gov.uk](mailto:Sara.Freckleton@teWKesbury.gov.uk)

**Appendices:** Appendix 1 – Protocol for Councillors and Officers Involved in the Planning Process – Final Version

Appendix 2 – Protocol for Councillors and Officers Involved in the Planning Process – Version Showing Changes

# TEWKESBURY BOROUGH COUNCIL

## **PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS**

# **2016**

**(Approved and adopted by Council on ~~14 April 2015~~)**

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## **1. PURPOSE AND STATUS**

- 1.1 This Protocol has been prepared as a public guide to the conduct of **all** Councillors and staff who come into contact with the planning process. It does not just apply to Members of the Planning Committee and professional Planning Officers. Its aim is to ensure and to demonstrate that the Council takes its planning decisions openly, impartially and for sound, justifiable planning reasons. The Protocol, which was first adopted by the Council as a Guide to Good Practice in 2002 has been reviewed and updated. The Human Rights Act 1998 has implications for the planning system and has created enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.
- 1.2 Councillors must observe the Members' Code of Conduct adopted by the Council on 26 June 2012 and Officers are subject to an Officer Code of Conduct. In addition professional Planning Officers are bound by their Institute's own Code of Conduct.
- 1.3 This Protocol provides supplementary and localised guidance on how the planning system in Tewkesbury Borough will be operated. It provides a measure against which the Council's operation of the planning system can be judged. Adherence to the Protocol should reduce cause for complaint by the public. The Planning Protocol is intended to minimise the prospect of legal or other challenge to planning decisions. However, non-compliance with the Protocol could be taken into account in any legal challenge, investigations into any complaints, allegations of maladministration or allegations of breach of the relevant Code of Conduct (Councillor or Officer).
- 1.4 The purpose of the Protocol is to set out in detail how Councillors and Officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner but are also seen to do so.

## **2. INTRODUCTION**

### **General Principles**

- 2.1 The planning system is a complex one which regulates and controls development in the public interest. Planning affects land and property interests including the value of land and the quality of the environment. Decisions affect people's daily lives and the private interests of individuals, landowners and developers. The role of the planning system is to regulate the use and development of land in the public interest. Accordingly planning decisions must be seen to be impartial and properly justified. The planning system can only operate effectively if there is trust among the various stakeholders, the public, applicants, developers, Councillors and Officers.
- 2.2 The planning system is based on the legal framework provided by planning legislation (including the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004) and Government Policy and Guidance contained in the National Planning Policy Framework, Planning Practice Guidance, Government Circulars, Good Practice Guides, Ministerial Statements and Case Law. Importantly the planning system (and the Borough Council) encourages the involvement of third parties in the process. Parish Councils, local residents, interest groups and local communities are consulted on planning proposals and are invited to comment. The Development Plan is subject to consultation through the Local Development Framework which provides for objections to be considered by Examination by an Inspector.
- 2.3 Planning decision-making is not an exact science but it relies on informed judgement within a firm policy context. It is also 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 decision notices. It is important, therefore, that the

process is characterised by open and transparent decision-making.

- 2.4 The Council recognises that planning decisions are made in a plan-led system and that in dealing with applications it must have regard to, so far as they are material to the application, the provisions of the Development Plan (which includes Neighbourhood Development Plans which have been made), any local finance considerations (see Paragraph 2.7 below) and any other material considerations; with it being that, where regard is to be had to the Development Plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.5 Further, that planning legislation requires that, where planning permission is granted subject to conditions, or refused, the decision notice shall include a statement explaining how, in dealing with the application, the Council has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.
- 2.6 Councillors and Officers aim to ensure that the decision making processes are open and fair, so that all the relevant issues are weighed in the balance and applications are dealt with in a consistent manner, through an appraisal of Development Plan policies and analysis of relevant material considerations. Officers prepare reports for Councillors which cover Development Plan Policy and other material considerations, including the implications of the Human Rights Act 1998, public representations and responses from statutory consultees concluding with a recommendation. Councillors should weigh all the issues in the balance during their considerations at Committee and vote on the planning merits of the case.
- 2.7 Planning legislation provides that regard is to be had to material local finance considerations and defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided, to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received,

or will, or could, receive, in payment of the Community Infrastructure Levy.

Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority or other Government body.

2.8 Planning decisions are based on interpretation of policies and guidance and it is essential that decisions are made impartially, having regard only to proper planning considerations, and in a way that does not give rise to public suspicion or mistrust.

2.9 This Protocol provides for periodic monitoring of planning decisions taken. Quality of outcomes and consistency of decision-making should be regularly reviewed by the Planning Committee.

#### **The General Role and Conduct of Councillors and Officers**

2.10 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are accountable to the electorate and Officers are accountable to the Council as a whole. It is the duty of Councillors to represent their constituents as a whole, including those who did not vote for them. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council or its Committees. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust and understanding of each others positions. This relationship, and the trust which underpins it, must never be abused or compromised. The Council has within its Constitution adopted a Member/Officer Protocol. In the event that Members wish to discuss a particular planning matter (application, potential application or planning policy) with an Officer an appointment should, whenever practicable, be made in advance.

- 2.11 The Council's Code of Conduct sets out the requirements for Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests (see next section), but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the planning process. Of particular relevance to Councillors serving on Planning Committees, or who become involved in making a planning decision, is the requirement that a Member must:-
- “not use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage or seek to improperly influence a decision about a matter from which you are excluded from participating or voting” (Paragraph 7(4) of the Council's Code of Conduct).
- 2.12 Although Councillors may take into account views of others they should not discriminate in favour of any particular group or individual, or put themselves in a position where they appear to do so should they wish to participate in respect of the determination of a proposal (see further at Paragraph 3.3 below on Voting and Impartiality).
- 2.13 All Officers must follow the Council's Code of Conduct for Employees or any statutory code which may come into force or be adopted by the Council. Officers who are chartered town planners must act in accordance with the Royal Town Planning Institute's (RTPI) Guidance of Professional Conduct and breaches of that guidance may be subject of separate disciplinary action by the Institute.
- 2.14 Professional Officers may have a change of opinion on receipt of further information or a change of circumstances but this must be on the basis of professional judgment; they must not be allowed to be influenced by Councillors or other Officers to change an opinion where this does not genuinely represent their professional view. The Council endorses the RTPI's statement that its members “shall not make or subscribe to any statements or reports which are contrary to their

own professional opinions”.

2.15 Employees must always act impartially. In order to ensure that senior Officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as Membership of political parties and serving on another Council. Such impartiality (particularly crucial in highly contentious matters) is reinforced by requirements on Members in the Council’s Code of Conduct. Members are placed under a requirement by Paragraphs 7(1) and 7(5) of the Council’s Code of Conduct to:

- treat others with respect; and
- not to do anything which compromises, or is likely to compromise the impartiality of those who work for, or on behalf of, your authority

2.16 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour or show bias toward 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 can act in this way should consider whether they are best suited to serve on a Planning Committee. Councillors should also be very cautious about accepting gifts and hospitality. The Gifts and Hospitality Protocol for Councillors must be observed by all Councillors including those involved in the planning process. Similarly, during the course of carrying out their duties, Officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, Officers should ensure that it is of the minimal level and declare its receipt to the Council’s Monitoring Officer as soon as possible.

2.17 The Council’s Code of Conduct provides that Members must notify the Monitoring Officer of the name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an

estimated value of £50 or more. Such an interest would automatically be one that would need to be disclosed at a meeting (as an “Other Interest”) where a matter in which a Member has such an interest arises and one where consideration would need to be given as to whether the Member should not participate (see Paragraphs 3.1.5, 3.1.6(iv) and 3.1.9 below).

- 2.18 A summary guide of “Do’s” and “Don’ts” is attached at Appendix B of this Protocol, but must be read in conjunction with, and in the context of, the Council’s Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process.

### **3. THE DECISION MAKING FRAMEWORK**

#### **3.1 Registration and Declarations of Interest**

- 3.1.1 The Localism Act 2011 and the Council's Code of Conduct place requirements on Members on the registration and declaration of their interests and the consequences for the Member's participation in consideration of a matter, in the light of those interests. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.
- 3.1.2 A Register of Members' Interests is maintained by the Council's Monitoring Officer, which is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests (disclosable pecuniary interests and other interests falling within Appendix B of the Council's Code of Conduct – see Paragraphs 3.1.3- and 3.1.6 below) within 28 days of his/her election, or appointment to Office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 3.1.3 The Council's Code of Conduct uses the terms "Disclosable Pecuniary Interests" and "Other Interests".
- 3.1.4 The Council's Code of Conduct defines "Disclosable Pecuniary Interests" as an interest set out in Appendix A of the Code of Conduct. These cover interests of the Member or the Member's spouse or civil partner, or a person with whom the Member is living as if they were civil partners or or living as husband and wife, in respect of criteria set out in that Appendix relating to: employment, office, trade, profession or vocation; sponsorship; contracts; land; licences; tenancies and securities.



- 3.1.5 The Code of Conduct defines an “Other Interest” in any matter as an interest as specified in Appendix B of the Code of Conduct (see Paragraph 3.1.6 below) or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of the other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate.
- 3.1.6 The interests set out in Appendix B of the Code of Conduct cover interests held by the Member in the following categories:
- (i) any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
  - (ii) any body –
    - (a) exercising functions of a public nature;
    - (b) directed to charitable purposes; or
    - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),  
of which the Member of the Council is a member or in a position of general control or management;
  - (iii) any person or body who employs or has appointed the Member;
  - (iv) The name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more
- 3.1.7 Where a Councillor considers he/she has an “Other Interest” or a Disclosable Pecuniary Interest” in any matter, he/she must declare it at the beginning of the meeting or when the interest becomes apparent. Councillors should be clear and specific in identifying the item on the

Agenda in which they have an interest and (unless the Monitoring Officer considers that it is a sensitive interest because its disclosure could lead to you, or the person connected with you, being subject to violence or intimidation) the nature of the interest. This declaration must be made at meetings of the Council, Planning Committee, Committee Site Visits, Working Groups or any outside body to which they are appointed or that they attend for Council, during informal meetings and in all circumstances where attending as a Councillor. Previous declarations or those made at Working Groups or Committee Site Visits must be repeated at Committee/Council meetings

3.1.8 Where the interest is a “Disclosable Pecuniary Interest” the Member must leave the meeting and not vote (unless a dispensation has been granted). It is a criminal offence to fail to comply with the requirements that relate to Disclosable Pecuniary Interests.

3.1.9 Where the interest is an “Other Interest”, whether one subject to registration or otherwise, the Member then needs to consider whether the “Other Interest” is one whereby the Member is excluded from participating or voting. The Council’s Code of Conduct provides that an “Other Interest” becomes such an interest if the matter being considered either:

- (a) affects your financial position or the financial position of the member of your family or person with whom you have a close association; or
- (b) relates to the determination of any approval, consent, licence, permission or registration in relation to you or any such person or body;

and the interest is one which a reasonable member of the public knowing facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. If this is the case, unless a dispensation has been granted or the function to be exercised is an excepted function (see Paragraph 3.1.10 below), the Member should not participate in a discussion on the matter, must withdraw from the room and must not seek improperly to influence a decision in the matter.

3.1.10 The Council’s Code of Conduct includes some exceptions in respect of “Other Interests” and the restriction upon a Member participating or voting as set out in Paragraph 10(2) and the “excepted function” definition within Part IX of the Code of Conduct. These relate to decisions in respect of housing functions and functions in respect of

allowances, ceremonial honours and Council Tax or precept setting.

- 3.1.11 In addition to the provisions on interests in the Code of Conduct, if a Councillor, in advance of the decision-making meeting, has taken a firm view on the decision to be made, either in meetings of another body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. The exemptions in the Council's Code of Conduct and any dispensations would only operate in the planning context if the Councillor had also scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance and appropriate conduct in relation to Membership of other bodies and the effects of such Membership on participation in the planning decision-making process. It is expanded in Paragraph 4.1 on lobbying.

### **3.2 Development Proposals submitted by Councillors and Officers; and Council Development**

- 3.2.1 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. So indeed can proposals for a Council's own development. Proposals can take the form of either planning applications or Development Plan proposals.
- 3.2.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 3.2.3 Councillors (whether on the Planning Committee or not) should not act as agents, or submit planning applications for other parties or voluntary bodies in respect of applications that will be determined by the Council.

To do so would give rise to suspicion that the Member was not impartial or may influence other Councillors in the decision making process.

- 3.2.4 Where Councillors need to submit planning applications on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers.–The Councillor must declare an interest and take no part in the decision-making process and must not use their position to improperly influence the decision.
- 3.2.5 Similarly, where an Officer or an agent submits a planning application on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. They must take no part in as an Officer of the Council in the processing of the application or in the decision-making process.
- 3.2.6 A Councillor or Officer who either submits a planning application or Development Plan proposal on their own behalf, or on behalf of their employer as part of their job, must, whether that Councillor or Officer's involvement is apparent from the application documentation or not, notify the Development Manager and the Council's Monitoring Officer of the submission of the application or proposal. That notification must be in writing and must be sent at the same time as the submission of the application or proposal.
- 3.2.7 The Council's own proposals for development must be dealt with on exactly the same basis as applications submitted by members of the public or developers and Officers must make recommendations having regard only to proper planning matters and must not have regard to any other benefit financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal save for any

material local financial consideration.

3.2.8 Where a Council development is being considered, Councillors who have been involved in the decision to seek planning permission (e.g. Members of the Executive Committee) and who are also Members of the Planning Committee should declare this at the Planning Committee when the planning application comes up for determination. In such cases, Councillors are usually still entitled to take part in the debate and vote. The exception to this could be in the case of a Councillor that has been closely involved in negotiations with developers in working up a proposal that needs planning permission. Similarly, where an application is submitted by a Parish Council and the Councillor is also a Member of the Parish Council consideration will need to be given to the role the Member has played in respect of the application at the Parish Council level above the general considerations as to any declarations that may need to be made by way of an "Other Interest" in respect of the application due to Membership of the Parish Council.

3.2.9 The consideration of a proposal from a Councillor (or a member of his/her family) would result in the need for that particular Councillor to declare an interest under the Council's Code of Conduct and the Councillor would be required to withdraw from any consideration of the matter. The Code also provides that the Councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any less rights than a member of public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.

### **3.3 Voting and Impartiality**

3.3.1 Councillors must vote in the interests of the whole Borough. Their duty is to the whole community, rather than just the people living in their Ward.

- 3.3.2 Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or allegation of maladministration. Members must not make their minds up until they have read the relevant Committee reports and heard the evidence and arguments on both sides at the Committee meeting.
- 3.3.3 If a Member of the Planning Committee does declare his or her support or opposition for a proposal before the matter has been put before the Planning Committee, where that Member would be entitled to vote, he/she must make declaration of their view to the Planning Committee, and should withdraw from the Committee whilst that proposal is discussed so that the Member takes no part in the debate or voting on that particular item. This does not mean that the Members of the Planning Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Planning Committee, but the view or comment must not pre-determine or be seen to pre-determine the way that Member will consider and weigh in the balance all the issues or their vote.
- 3.3.4 Some Councillors will be Members of Parish/Town Councils as well as Borough Councillors. This situation can present problems where a Parish Council is to express a view as to whether it wishes to support, object or comment on a proposal, for example where the Parish/Town Council are consulted on planning applications. Whilst the comments of Parish Councils should concentrate on local issues this is often the stage when Borough Councillors can come under pressure to indicate their support or objection to a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils

votes on an application at a Parish/Town meeting prior to the Borough Council's Planning Committee meeting. It is quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information is made available in the Officer's report to the Borough Council. In order to avoid this potential conflict, and creating the impression that they have already made up their minds prior to the Borough Council's Planning Committee meeting, it would be preferable for Borough Councillors not to take part in the consideration of proposals at the Parish Council level (other than to listen to any debate) and not serve on Parish/Town Council Planning Committees/Sub-Committees. If a Planning Committee Member is also a Parish/Town Council Member and does decide to declare support or opposition or make comments at the Parish/Town Council then Paragraph 3.3.3 above shall apply.

3.3.5 The provisions of Paragraphs 3.3.4 above apply similarly in relation to Membership of another Local Authority. For example, if a planning application to be determined by the County Council comes before the Borough Council's Planning Committee for a consultation response, it may be preferable for any Borough Councillor who is also a Member of the County Council not to take part in the considerations of the application at the Borough Council level should they wish to take part in the determination of the application at the County Council level.

3.3.6 Where a Borough Council Member is also a Member of a Parish/Town Council or County Council and a proposal in respect of land within the Parish or the area for which the Borough Councillor is also a County Councillor is to be considered at Planning Committee or Council, the Borough Councillor should declare this at the meeting with reference to the relevant Agenda item(s) and also their position as to whether or not they have been, or will be, involved in any previous or subsequent



consideration of the proposal at the Parish/Town or County Council level.

- 3.3.7 Councillors should not organise support for or against a planning proposal should they wish to take part in the debate or voting on the proposal since this would also signal that they had made up their mind before hearing the evidence. Nor should they lobby other Councillors (see Paragraph 4.1 below). Each Councillor should make up his or her own mind on the evidence and facts presented to the relevant Committee or to the Council.
- 3.3.8 Councillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.
- 3.3.9 Given that the point at which a decision is made cannot occur before the Committee meeting, when all information is to hand and has been duly considered, it is inappropriate for any pre-Planning Committee political group meeting to be held. The use of the party whip is incompatible with the role of the Planning Committee. Less formal arrangements or understandings could also amount to maladministration. Group meetings which involve discussion of planning applications or Development Plan proposals should always commence by reference to the non-political nature of planning decision-making and with a reminder of the need for Councillors to make their decision at the Committee meeting and not previously.

### **3.4 Pre-Application Discussions/Informal Site Meetings**

- 3.4.1 Most pre-application discussions take place between Officers and potential applicants. Officers of the Council will make it clear at the outset and at the end of such discussions that the advice given is personal and provisional and will not bind the Council to making a particular decision.

- 3.4.2 The advice offered should be consistent and based upon the Development Plan and other material considerations. Senior Officers will ensure that there is no significant difference of interpretation of planning policies between Planning Officers. Officers taking part in such discussions will make it clear whether or not they are the decision maker. A written record will be made of all meetings.
- 3.4.3 Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should ask prospective applicants to contact the appropriate Officer to advise on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with planning policy) they should make it clear that they will only be in a position to take a final view after considering the Officer's reports and representations and hearing any debate at the Committee meeting.
- 3.4.4 Formal meetings (i.e. those meetings which are more than merely the receiving and absorbing of information) of Councillors with applicants, developers and their agents should be undertaken in the presence of at least one Officer and a written record should be made of that meeting.
- 3.4.5 Informal site meetings with applicants/agents may be misinterpreted by the public, an applicant, or agent and a Councillor discussing issues on site and perceived to be more than merely the receiving and absorbing of information. Clearly, Councillors need to be able to respond to their constituents and on occasion a visit to a site for a proposed extension (for example) to hear concerns from constituents may be justified. A note should be taken and care exercised to ensure the applicant, objector and supporters are treated equally.
- 3.4.6 The fact that Councillors have discussed any such proposal with the applicant or supporters/objectors must be made clear when the

application is before the Committee for determination. Copies of notes (or e-mails) should be forwarded to the Case Officer to be placed on file.

### **3.5 Chair and Vice-Chair's Management Briefing**

The Chair and Vice-Chair of the Planning Committee will, once the Agenda for the meeting has been produced, receive a pre-Committee briefing on matters pertaining to the management of the business of the Committee. The sole purpose for the Chair and Vice-Chair's Briefing is to enable the efficient management of the business of the Committee.

### **3.6 The Committee's Decisions**

3.6.1 In accordance with the law, where the Development Plan is relevant, decisions must be taken in accordance with it unless material considerations indicate otherwise.

3.6.2 It is inevitable, from time to time, that decisions will be made which are contrary to the Officer recommendation. However, it is important that on these occasions the Planning Committee makes clear the reasons for making such a decision at the time. Where a Member is minded to move a resolution which is contrary to Officer recommendation (whether for approval or refusal) clear and convincing reasons based on land use grounds should be given, and in the case of an approval, an indication of the acceptable conditions. The personal circumstances of an applicant will rarely provide convincing grounds to justify development which is contrary to the Development Plan. Officers should be given the opportunity to explain the implications of any proposed resolution that is contrary to Officer recommendation.

3.6.3 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal) the Minutes of the meeting shall contain details of the Planning Committee's reasons and any Officer explanation of the implications.

### **3.7 Regular Review of Decisions**

A review of decision-making will take place each year through consideration of an annual report to the Planning Committee. This report will include a statistical analysis of all decisions taken (specifying the Officer recommendation) during the previous year and will report the outcome of any related appeal decisions. The analysis will also identify the number of cases where Officer's recommendations were not accepted. The annual report will be considered by the Planning Committee along with any recommendations to improve quality, consistency or performance.

### **3.8 Access to Information**

3.8.1 Section 2 of Part 4 (RULES OF PROCEDURE) of the Council's Constitution sets out the Rules for Access to Information considered by the Council or by any of its Committees. The Freedom of Information Act 2000 entitles any person to request in writing information held by the Council although there are some exemptions which mean that the information will not be disclosed. The Council has a procedure for dealing with requests under the Freedom of Information Act.

3.8.2 Section 3 of Part 5 (CODES AND PROTOCOLS) of the Council's Constitution is a Protocol for Member/Officer Relations which makes clear the restrictions which apply to the supply of information to Members of the Council. Councillors do not have a "roving commission" to access all information held by the Council and would not be permitted to inspect information which is not available to members of the public unless there is a genuine need for that Member to have that particular information, for example, if it is a matter being considered by a Committee on which that Member serves.

3.8.3 Confidential/exempt information held on the files relating to complaints of, or investigations into, breaches of planning control (enforcement) would

only be disclosed to a Member in the event that the Member has a need to know that confidential information. Similarly, it would only be disclosed to a member of the public if it did not qualify as an exemption under the Freedom of Information Act 2000.

### **3.9 Decision-Making**

Part 3 of the Council's Constitution sets out the responsibility for functions. The Council has delegated a substantial amount of its decision-making to Committees. The Council and/or its Committees have also delegated responsibility for certain decisions and functions to Officers. The Council has not delegated policy making to any Committee or Officer. The Development Plan, for example, will be a matter which requires approval by the Council. In respect of Development Management, there is a Scheme of Delegation to Officers (Part 3 of the Constitution) which enables Planning Officers to determine planning and other applications for consents or permissions and also enables Officers to make decisions on when to take enforcement action in respect of breaches of planning control.

## **4. THIRD PARTY RELATIONSHIPS**

### **4.1 Lobbying of Councillors and Circulation of Unofficial Information**

4.1.1 Lobbying is an attempt to influence a Councillor's view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as planning decisions, it can result in decisions being made improperly, or being perceived to be made improperly with undue influence from applicants' agents or those making representations resulting in inconsistent or erratic decision-making.

4.1.2 Planning decisions must be made strictly on the basis of the facts, policies and material circumstances relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular Members must not prejudge proposals before they have read the Officer's reports and considered all the evidence at the Committee meeting.

4.1.3 Lobbying can take many forms, including the most common:-

- Lobbying of Councillors by applicants, agents, objectors or supporters.
- Lobbying by other Councillors.

4.1.4 Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. On occasions applications/agents/owners may wish to meet Councillors at the site.

4.1.5 Where a Councillor is asked for support by an applicant or agent, supporter or objector in respect of a planning application or related matter then the Member must state that he/she will not indicate support or otherwise until they are in possession of all the facts have had heard the Committee debate. Such contact (lobbying) must be declared at the Committee meeting.

- 4.1.6 Councillors on the Planning Committee who receive correspondence from people seeking to persuade them to vote in a particular way should, where that correspondence is not referred to in either the Officers' report to Committee, or on the Additional Representations Sheet circulated at Committee, copy it to the Development Manager and the Case Officer for the application.
- 4.1.7 Councillors who receive correspondence from people seeking to persuade them to vote in a particular way in respect of a Development Plan matter should, where that correspondence is not referred to in the Officers' report to Council, copy it to the Planning Policy Manager.
- 4.1.8 Developers often arrange presentations in respect of their development proposals and, provided these are within a public forum (for example at a Parish Council meeting), Members of the Planning Committee may attend and listen to such presentations and ask questions for the purposes of clarifying their understanding of the proposals. However, it is important to be aware that a presentation is a form of lobbying and bear in mind the need to avoid pre-determination. Any attendance at developer presentations must be declared at the Planning Committee meeting.

## **4.2 Gifts and Hospitality; Impartiality and Respect**

- 4.2.1 The Council has adopted a Protocol for Councillors on Gifts and Hospitality, which specifies the circumstances in which Gifts and Hospitality may be received and the procedures to be followed. That Protocol should be read in conjunction with this document.
- 4.2.2 Officers must always act impartially and declare any outside interests or affiliation they may have in the questionnaire provided each year for this purpose.
- 4.2.3 If Officers have a personal interest (which would include, as well as

matters relating to their own financial interests, any matters which might reasonably be regarded as affecting the well-being or financial interest of themselves, a relative or a friend) or a suspicion that they may be perceived to have a personal interest, which may affect or be perceived to affect their objective, impartial professional advice, they should declare an interest and have no dealings with the application. If the matter is considered at Planning Committee the Officer's declaration shall be made at the Committee meeting.

4.2.4 Members and Officers should treat each other with respect at all times and not do anything which is likely to compromise the impartiality of those involved in the process or to create a perception that decisions are not well-founded.

4.2.5 Members of the Planning Committee need to avoid members of the public, applicants and other Councillors seeking to communicate with them individually (whether orally in writing) during the Planning Committee's proceedings. This could be seen as seeking to influence a Councillor improperly and will create a perception of bias that may be difficult to overcome.



## **5. DEVELOPMENT PLANS AND PLANNING OBLIGATIONS**

### **5.1 Development Plans**

- 5.1.1 The preparation of Development Plans (including Neighbourhood Plans) through the prescribed process provides for statutory consultation and ultimately for representations to be considered on Examination by an independent Inspector.
- 5.1.2 In respect of Neighbourhood Plans, the bodies that lead and initiate proposals are Parish/Town Councils or (where there is not Parish/Town Council) neighbourhood forums. However, as well as being a statutory consultee in the neighbourhood planning process, the Council also has a direct role to play in providing advice and assistance, undertaking certain procedural steps and taking decisions on the plan throughout the process. This includes: the designation of neighbourhood areas, assessing whether legal requirements have been met, organising Referendum(s) and bringing the Neighbourhood Plan into legal effect.
- 5.1.3 It is vital that the same guidelines on probity are observed throughout the Development Plan process. Interests must be declared in accordance with the Council's Code of Conduct and Members must not seek to influence colleague Councillors on matters in which they are excluded from participating or voting under the Code of Conduct or due to issues of pre-determination. The Council must ensure that the land use allocation process is based on open analysis and appraisal of sites on planning grounds and that full consultation in accord with the statutory requirements is carried out.
- 5.1.4 The plan-making process is similar to the Development Management decision-making process in that it should be non-political. The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, particularly

in the Local Development Framework process of allocation of housing and employment sites, and opposing views are often strongly held by those involved. 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.

## **5.2 Planning Obligations**

- 5.2.1 Under Government Policy set out in the National Planning Policy Framework and planning legislation, a planning obligation should only be sought and may only constitute a reason for granting planning permission if the obligation is:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- 5.2.2 The Planning Obligations Officer Working Group will meet to consider the appropriate obligations to impose on all major planning applications for residential development (i.e. those applications for 10 or more dwellings). The Terms of Reference of the Planning Obligations Officer Working Group are attached at Appendix A
- 5.2.3 In every case the heads of terms of a legal agreement are identified in the Officers' report to Planning Committee. Copies of completed agreements are made available for inspection in the Public Register at the Council Offices.
- 5.2.4 At all times Councillors should convey their observations/comments on legal agreement issues to the responsible Officers and not negotiate local requirements directly with developers unless accompanied by an Officer or in a formal meeting convened by the Borough Council. This

does not mean that Councillors cannot comment on or reflect/communicate the needs of a community, which should be taken into account, and Councillors can become involved as set out in Paragraph 5.2.5 below. If Councillors do become involved in discussion with developers or individuals through their Local Member or Parish/Town Council role, a declaration to that effect should be made at any Committee meeting and a written statement submitted to the Development Manager and the Case Officer for the application, summarising the exchange of views/information. A copy of the statement will be placed on the application file relating to that proposal.

- 5.2.5 Though Councillors should not normally become drawn into negotiations themselves, with instead negotiations undertaken by Officers, Officers should keep *relevant Ward* Councillors up to date and Councillors should relay matters of local concern in respect of any planning obligation provisions to Officers. Involving Councillors can help identify issues early on, helps Councillors lead on community issues and helps make sure that issues do not come to light for the first time at Planning Committee.

## **6. PLANNING COMMITTEE SITE VISITS**

### **6.1 Purpose of Planning Committee Site Visits**

- 6.1.1 Given the size and geography of the Borough it is not possible to carry out site visits for all applications considered by the Planning Committee.
- 6.1.2 To ensure that Committee applications are dealt with as effectively and quickly as possible, site visits will be held prior to Committee for all outline and full applications for large scale major residential development (i.e. those of 200 dwellings or more). This does not include reserved matters applications.
- 6.1.3 Councillors will also be able to request Planning Committee site visits during the application process, whilst the Planning Committee may also choose to defer applications for a site visit (see Paragraph 6.2.3).
- 6.1.4 The purpose of a Planning Committee site visit is solely to enable Councillors to assess a proposal and its effect on site. The visit, along with the Officer report, will allow Councillors to formulate a view, having regard to all relevant planning matters and representations which have been received.
- 6.1.5 There are a number of reasons why Councillors may request a Committee site visit, including:
- To judge whether the visual impact of the proposed development is acceptable.
  - To consider impact on residential amenity.
  - To consider design considerations including impact on the street scene or public space.
  - To assess highway safety/traffic impact.
  - To assess the impact on areas of landscape designation including the Cotswolds Area of Outstanding Natural Beauty.
  - To assess the impact on the openness of the Green Belt.

### **6.2 Requests for Planning Committee Site Visits**

- 6.2.1 Planning Committee Site Visits will normally take place on the Friday before the Planning Committee meeting. Any Councillor may request a site visit by the Planning Committee in the same way that requests for Committee determination are made. All requests must be justified with

sound planning reasons.

6.2.2 Requests must be made as soon as possible following validation of an application. Requests must be made in writing to the Development Manager who will determine whether or not a site visit is appropriate in each individual case. If it is determined that a site visit is not necessary, the Development Manager will provide a written response to the Councillor who made the request to explain the reasons why this is the case.

6.2.3 The itinerary for site visits will be circulated as soon as possible following finalisation of the Agenda for the next Planning Committee. There will be occasions where a site visit has not been agreed in advance of the Committee meeting yet the Committee decide that a site visit is necessary. In such circumstances, the Committee is able to defer an application for a site visit which will be added to the itinerary for site visits taking place in advance of the next Planning Committee meeting. There must be sound planning reasons to defer an application for a site visit. Such reasons must be clearly set out by the proposer and recorded in the Minutes.

### **6.3 Procedure for Planning Committee Site Visits**

6.3.1 In order to ensure that all Planning Committee Site Visits relating to planning matters are dealt with consistently and fairly, site visits will be carried out in accordance with the procedure set out at **Appendix C** of this Protocol.

#### Attendance

6.3.2 All Members of the Planning Committee will be invited to attend

Committee Site Visits along with Ward Members (and, where appropriate, adjacent Ward Members). All site visits will be attended by a Planning Officer and, where appropriate, representatives of specialist consultees (for example, the County Highways Authority or Environment Agency) where they have been expressly invited by the Planning Committee or the Development Manager.

## **7. MEMBER TRAINING**

### **7.1 Induction Training**

No Councillor shall serve on the Planning Committee unless he/she has attended initial induction training sessions.

### **7.2 Updates and Continuous Member Development Programme**

7.2.1 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices verbally at meetings, or in briefing notes (for example, the Member Update Sheet) and be required to participate in the continuous Member Development Programme agreed by the Planning Committee and requiring that each Member of the Planning Committee must attend as an absolute minimum 50% of the training events held in any year.

7.2.2 Group Leaders will be asked to encourage Planning Committee Members to participate in the continuous Member Development Programme and will review their nomination for the Planning Committee at the Annual Council meeting if an acceptable level of attendance is not achieved.

7.2.3 The continuous Member Development Programme training will be offered to all Members of the Council and all are strongly recommended to attend, whether or not at the time of the training they are a Member of the Planning Committee.

## PLANNING OBLIGATIONS OFFICER WORKING GROUP

### Introduction

Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) provides for the making of legal obligations in connection with the grant of planning permission, the purpose of which is to address specific issues arising out of development proposals. Legal obligations signed in accordance with Section 106 require certain actions to be undertaken, or payments to be made, to enable development proposals to be deemed acceptable and properly assimilated into their surroundings. All planning obligations must meet the test of the Community Infrastructure Levy (CIL) regulations.

To ensure that policy in respect of planning obligations is being correctly applied, and to support the identification of Section 106 requirements arising from developments, the Council has formed a Planning Obligations Officer Working Group.

### Terms of Reference

1. To provide a mechanism for the formulation of Section 106 obligations from inception to completion and to monitor the implementation of Section 106 obligations.
2. To enable a corporate approach to the assessment of the infrastructure and housing needs arising from new developments.
3. To provide a structured process and an evidence based approach, involving community engagement where required, to identify Section 106 funding and requirements that reflect the needs and aspirations of the community.
4. To provide a recommendation to the Corporate Leadership Team on the draft heads of terms for major applications of strategic importance.
5. To support Planning Case Officers in their management of the negotiating process.
6. To provide a single point of access to data on all Section 106 activities including detailed information on financial contributions made by developers and the receipt of such by the Council.
7. To provide a means for monitoring the application of Section 106 policy across the Council.
8. To monitor and produce regular monitoring reports to the Corporate Leadership Team outlining the progress on implementation of legal obligations.

### Meetings

Meetings will be held on a monthly basis with meetings set at least three months in advance.

Extraordinary meetings may be necessary to deal with large-scale major applications.



## **Membership**

The Working Group comprises:

Representatives from Development Management, Planning Policy, Housing Strategy, Community (public open space and community facilities), Finance, Waste, and One Legal. Where appropriate, colleagues from the County Council (highways and education/libraries), Environment Agency and the Primary Care Trust (or successor organisation) will also be invited.

## **The Role of the Corporate Leadership Team (CLT)**

A report shall be prepared every six months advising of major cases which are likely to be reported to CLT over the next six months.

CLT will identify which cases they would like to review and comment on whether the proposed obligations in each case are considered appropriate in line with corporate objectives.

### SUMMARY GUIDE OF DO'S AND DON'TS

This must be read in conjunction with, and in the context of, the Council's Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process

#### DO

Do always involve Officers and structure discussions with developers

Do inform Officers about any approaches made to you and seek advice

Do familiarise yourself with the Council's Code of Conduct and follow it when you are representing the Council

Do keep your Register of Interests up to date

Do follow the Council's Protocol for Councillors and Officers involved in the Planning Process

Do be aware of what predisposition, predetermination and bias mean in your role – ask your Monitoring Officer if unsure

Do be prepared to hold discussions with an applicant and your Officers before a planning

#### DON'T

Do not use your position improperly for personal gain or to advantage your friends or close associates

Do not meet developers alone or put yourself in a position where you appear to favour a person, company or group –even a “friendly” private discussion with a developer could cause others to mistrust your impartiality

Do not attend meetings or be involved in decision-making where you have a disclosable pecuniary interest or another interest which is one whereby you are excluded from participating or voting under the Council's Code of Conduct – except where you have been granted a dispensation or speaking when the general public are also allowed to do so.

Do not accept gifts or hospitality

Do not prejudge or be seen to prejudge an issue if you want to be a decision-maker on a proposal

Do not seek to influence Officers or put pressure on them to support a particular course of action in relation to a planning application

Do not compromise the impartiality of people who work for the Council

application is made, not just after it has been submitted to your authority

Do preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding

Do be aware of what disclosable pecuniary interests and other interests under the Council's Code of Conduct are – refer to your Monitoring Officer if you are unsure

Do recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role

Do stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning

Do use meetings to show leadership and vision

Do encourage positive outcomes

Do ask for training from your Council in probity matters

Do recognise that you can lobby and campaign but that this may remove you from the decision making process

Do feed in both your own and your local community's concerns and issues

Do be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

## PROCEDURE FOR PLANNING COMMITTEE SITE VISITS

### **1. Introduction**

- 1.1 This procedure relates to the carrying out of site visits by the Tewkesbury Borough Council Planning Committee in connection with the determination of planning and related applications.
- 1.2 The purpose of site visits is solely to enable Councillors to assess a proposal and its effect on site. There will be no debate about the merits of the application during the site visit.
- 1.3 Site visits subject to the this protocol will be agreed in accordance with the procedure set out in Paragraph 6.2 of the Council's 'Protocol for Councillors and Officers Involved in the Planning Process'.

### **2. Who may attend a site visit?**

- 2.1 All Members of the Planning Committee will be invited to the site visits which will normally take place on the Friday before Planning Committee meetings. Ward Members and, where appropriate, Members of adjoining Wards will also be invited.
- 2.2 Relevant external consultees (for example, representatives of the County Highway Authority or Environment Agency) will also be invited where the Development Manager considers it would be useful for the Committee, or where their attendance has been expressly requested by the Planning Committee/Chair.
- 2.4 The applicant and/or their agent, Parish/Town Council representative, supporters of or objectors to the proposal, or general onlookers will not be allowed to participate in the site visit.

### **3. How will a site visit be carried out?**

- 3.1 Planning Committee site visits shall be chaired by the Chair of Planning Committee, or in his absence by the Vice-Chair. In the event that neither the Chair nor Vice-Chair is available, a Chair will be elected on the day from the Planning Committee Members in attendance.
- 3.2 Site visits will be conducted in accordance with the following:

- Site visits shall be conducted in a formal manner.
- The Chair will open proceedings and ask for any declarations of interest. The Chair will explain the purpose of the visit and how the visit will proceed.
- The Planning Officer will introduce the application, explaining the proposal and advising those present of any issues relevant to the site visit.
- The Chair will seek any points of clarification.
- Local Ward Members will be asked to highlight any local issues relevant to the site visit.
- Following the site visit, the Chair will invite any further points of clarification arising from the site visit. Councillors will be able to highlight any information which they feel is necessary for the Planning Committee meeting.
- The Chair will close the visit.

#### **4. General matters**

- 4.1 No formal notes of the site visit will be made. Members will debate any findings arising from the site visit at the Committee meeting.
- 4.2 No hospitality will be accepted.

# TEWKESBURY BOROUGH COUNCIL

## PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

20165

(Approved and adopted by Council on ~~14 April 2015~~)

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## **1. PURPOSE AND STATUS**

- 1.1 This Protocol has been prepared as a public guide to the conduct of **all** Councillors and staff who come into contact with the planning process. It does not just apply to Members of the Planning Committee and professional Planning Officers. Its aim is to ensure and to demonstrate that the Council takes its planning decisions openly, impartially and for sound, justifiable planning reasons. The Protocol, which was first adopted by the Council as a Guide to Good Practice in 2002 has been reviewed and updated. The Human Rights Act 1998 has implications for the planning system and has created enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.
- 1.2 Councillors must observe the Members' Code of Conduct adopted by the Council on 26 June 2012 and Officers are subject to an Officer Code of Conduct. In addition professional Planning Officers are bound by their Institute's own Code of Conduct.
- 1.3 This Protocol provides supplementary and localised guidance on how the planning system in Tewkesbury Borough will be operated. It provides a measure against which the Council's operation of the planning system can be judged. Adherence to the Protocol should reduce cause for complaint by the public. The Planning Protocol is intended to minimise the prospect of legal or other challenge to planning decisions. However, non-compliance with the Protocol could be taken into account in any legal challenge, investigations into any complaints, allegations of maladministration or allegations of breach of the relevant Code of Conduct (Councillor or Officer).
- 1.4 The purpose of the Protocol is to set out in detail how Councillors and Officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner but are also seen to do so.

## 2. INTRODUCTION

### General Principles

- 2.1 The planning system is a complex one which regulates and controls development in the public interest. Planning affects land and property interests including the value of land and the quality of the environment. Decisions affect people's daily lives and the private interests of individuals, landowners and developers. The role of the planning system is to regulate the use and development of land in the public interest. Accordingly planning decisions must be seen to be impartial and properly justified. The planning system can only operate effectively if there is trust among the various stakeholders, the public, applicants, developers, Councillors and Officers.
- 2.2 The planning system is based on the legal framework provided by planning legislation (including the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004) and Government Policy and Guidance contained in the National Planning Policy Framework, Planning Practice Guidance, Government Circulars, Good Practice Guides, Ministerial Statements and Case Law. Importantly the planning system (and the Borough Council) encourages the involvement of third parties in the process. Parish Councils, local residents, interest groups and local communities are consulted on planning proposals and are invited to comment. The Development Plan is subject to consultation through the Local Development Framework which provides for objections to be considered by Examination by an Inspector.
- 2.3 Planning decision-making is not an exact science but it relies on informed judgement within a firm policy context. It is also 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 decision notices. It is important, therefore, that the

process is characterised by open and transparent decision-making.

- 2.4 The Council recognises that planning decisions are made in a plan-led system and that in dealing with applications it must have regard to, so far as they are material to the application, the provisions of the Development Plan (which includes Neighbourhood Development Plans which have been made), any local finance considerations (see Paragraph 2.7 below) and any other material considerations; with it being that, where regard is to be had to the Development Plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.5 Further, that planning legislation requires that, where planning permission [is](#) granted subject to conditions, or refused, the decision notice shall include a statement explaining how, in dealing with the application, the Council has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.
- 2.6 Councillors and Officers aim to ensure that the decision making processes are open and fair, so that all the relevant issues are weighed in the balance and applications are dealt with in a consistent manner, through an appraisal of Development Plan policies and analysis of relevant material considerations. Officers prepare reports for Councillors which cover Development Plan Policy and other material considerations, including the implications of the Human Rights Act 1998, public representations and responses from statutory consultees concluding with a recommendation. Councillors should weigh all the issues in the balance during their considerations at [Ce](#)ommittee and vote on the planning merits of the case.
- 2.7 Planning legislation provides that regard is to be had to material local finance considerations and defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided, to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received,

or will, or could, receive, in payment of the Community Infrastructure Levy.

Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority or other Government body.

2.8 Planning decisions are based on interpretation of policies and guidance and it is essential that decisions are made impartially, having regard only to proper planning considerations, and in a way that does not give rise to public suspicion or mistrust.

2.9 This Protocol provides for periodic monitoring of planning decisions taken. Quality of outcomes and consistency of decision-making should be regularly reviewed by the Planning Committee.

#### **The General Role and Conduct of Councillors and Officers**

2.10 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are accountable to the electorate and Officers are accountable to the Council as a whole. It is the duty of Councillors to represent their constituents as a whole, including those who did not vote for them. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council or its Committees. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust and understanding of each others positions. This relationship, and the trust which underpins it, must never be abused or compromised. The Council has within its Constitution adopted a Member/Officer Protocol. In the event that Members wish to discuss a particular planning matter (application, potential application or planning policy) with an Officer an appointment ~~must~~ should, whenever practicable, be made in advance.

2.11 The Council's Code of Conduct sets out the requirements for Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests (see next section), but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the planning process. Of particular relevance to Councillors serving on Planning Committees, or who become involved in making a planning decision, is the requirement that a Member must:-

“not use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage or seek to improperly influence a decision about a matter from which you are excluded from participating or voting” (Paragraph 7(4) of the Council's Code of Conduct).

2.12 Although Councillors may take into account views of others they should not discriminate in favour of any particular group or individual, or put themselves in a position where they appear to do so should they wish to participate in respect of the determination of a proposal (see further at Paragraph 3.3 below on Voting and Impartiality).

2.13 All Officers must follow the Council's Code of Conduct for Employees or any statutory code which may come into force or be adopted by the Council. Officers who are chartered town planners must act in accordance with the Royal Town Planning Institute's (RTPI) Guidance of Professional Conduct and breaches of that guidance may be subject of separate disciplinary action by the Institute.

2.14 Professional Officers may have a change of opinion on receipt of further information or a change of circumstances but this must be on the basis of professional judgment; they must not be allowed to be influenced by Councillors or other Officers to change an opinion where this does not genuinely represent their professional view. The Council endorses the RTPI's statement that its members “shall not make or subscribe to any statements or reports which are contrary to their

own professional opinions”.

2.15 Employees must always act impartially. In order to ensure that senior Officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as Membership of political parties and serving on another Council. Such impartiality (particularly crucial in highly contentious matters) is ~~re-enforced~~ reinforced by requirements on Members in the Council's Code of Conduct. Members are placed under a requirement by Paragraphs 7(1) and 7(5) of the Council's Code of Conduct to:

- ~~t~~Treat others with respect; and
- ~~n~~Not to do anything which compromises, or is likely to compromise the impartiality of those who work for, or on behalf of, your authority

2.16 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour or show bias toward 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 can act in this way should consider whether they are best suited to serve on a Planning Committee. Councillors should also be very cautious about accepting gifts and hospitality. The Gifts and Hospitality Protocol for Councillors must be observed by all Councillors including those involved in the planning process. Similarly, during the course of carrying out their duties, Officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, Officers should ensure that it is of the minimal level and declare its receipt to the Council's Monitoring Officer as soon as possible.

2.17 The Council's Code of Conduct provides that Members must notify the Monitoring Officer of the name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an

estimated value of £50 or more. Such an interest would automatically be one that would need to be disclosed at a meeting (as an “Other Interest”) where a matter in which a Member has such an interest arises and one where consideration would need to be given as to whether the Member should not participate (see Paragraphs 3.1.5, 3.1.6(iv) and 3.1.9 below).

[2.14](#) A summary guide of “Do’s” and “Don’ts” is attached at Appendix B of this Protocol,  
[2.18](#) but must be read in conjunction with, and in the context of, the Council’s Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process.

### **3. THE DECISION MAKING FRAMEWORK**

#### **3.1 Registration and Declarations of Interest**

- 3.1.1 The Localism Act 2011 and the Council's Code of Conduct place requirements on Members on the registration and declaration of their interests and the consequences for the Member's participation in consideration of a matter, in the light of those interests. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.
- 3.1.2 A Register of Members' Interests is maintained by the Council's Monitoring Officer, which is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests (disclosable pecuniary interests and other interests falling within Appendix B of the Council's Code of Conduct – see Paragraphs 3.1.3- and 3.1.6 ~~respectively~~ below) within 28 days of his/her election, or appointment to Office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 3.1.3 The Council's Code of Conduct uses the terms "Disclosable Pecuniary Interests" and "Other Interests".
- 3.1.4 The Council's Code of Conduct defines "Disclosable Pecuniary Interests" as an interest set out in Appendix A of the Code of Conduct. These cover interests of the Member or the Member's spouse or civil partner, or a person with whom the Member is living as if they were civil partners or or living as husband and wife, in respect of criteria set out in that Appendix relating to: employment, office, trade, profession or vocation; sponsorship; contracts; land; licences; tenancies and securities.



3.1.5 The Code of Conduct defines an “Other Interest” in any matter as an interest as specified in Appendix B of the Code of Conduct (see Paragraph 3.1.6 below) or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of the other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate.

3.1.6 The interests set out in Appendix B of the Code of Conduct cover interests held by the Member in the following categories:

- (i) any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body –
  - (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),  
of which the Member of the Council is a member or in a position of general control or management;
- (iii) any person or body who employs or has appointed ~~you~~ the Member;
- (iv) The name of any person, organisation, company or other body ~~from~~ from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more

3.1.7 Where a Councillor considers he/she has an “Other Interest” or a Disclosable Pecuniary Interest” in any matter, he/she must declare it at the beginning of the meeting or when the interest becomes apparent. Councillors should be clear and specific in identifying the item on the

Agenda in which they have an interest and (unless the Monitoring Officer considers that it is a sensitive interest, because its disclosure could lead to you, or the person connected with you, being subject to violence or intimidation) the nature of the interest. This declaration must be made at meetings of the Council, Planning Committee, [Committee Site Visits](#), Working Groups or any outside body to which they are appointed or that they attend for Council, during informal meetings and in all circumstances where attending as a Councillor. Previous declarations or those made at Working Groups or ~~Sites Inspection Panels~~ [Committee Site Visits](#) must be repeated at Committee/Council meetings

3.1.8 Where the interest is a “Disclosable Pecuniary Interest” the Member must leave the meeting and not vote (unless a dispensation has been granted). It is a criminal offence to fail to comply with the requirements that relate to Disclosable Pecuniary Interests.

3.1.9 Where the interest is an “Other Interest”, whether one subject to registration or otherwise, the Member then needs to consider whether the “Other Interest” is one whereby the Member is excluded from participating or voting. The Council’s Code of Conduct provides that an “Other Interest” becomes such an interest if the matter being considered either:

- (a) ~~it~~ affects your financial position or the financial position of the member of your family or person with whom you have a close association; or
- (b) ~~it~~ relates to the determination of any approval, consent, licence, permission or registration in relation to you or any such person or body;

and the interest is one which a reasonable member of the public knowing facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. If this is the case, unless a dispensation has been granted or the function to be exercised is an excepted function (see Paragraph 3.1.10 below), the Member should not participate in a discussion on the matter, must withdraw from the room and must not seek improperly to influence a decision in the matter.

3.1.10 The Council’s Code of Conduct includes some exceptions ~~to~~ in respect of “Other Interests” and the restriction upon a Member participating or voting as set out in Paragraph 10(2) and the “excepted function” definition within Part IX of the Code of Conduct. These relate to decisions in respect of housing functions and functions in respect of

allowances, ceremonial honours and Council Tax or precept setting.

- 3.1.11 In addition to the provisions on interests in the Code of Conduct, if a Councillor, in advance of the decision-making meeting, has taken a firm view on the decision to be made, either in meetings of another body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. The exemptions in the Council's Code of Conduct and any dispensations would only operate in the planning context, if the Councillor had also scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance and appropriate conduct in relation to Membership of other bodies and the effects of such Membership on participation in the planning decision-making process. It is expanded in Paragraph 4.1 on lobbying.

### **3.2 Development Proposals submitted by Councillors and Officers; and Council Development**

- 3.2.1 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. So indeed can proposals for a Council's own development. Proposals can take the form of either planning applications or Development Plan proposals.
- 3.2.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 3.2.3 Councillors (whether on the Planning Committee or not) should not act as agents, or submit planning applications for other parties or voluntary bodies in respect of applications that will be determined by the Council.

To do so would give rise to suspicion that the Member was not impartial or may influence other Councillors in the decision making process.

3.2.4 Where Councillors need to submit planning applications on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. ~~The must~~Councillor must declare an interest and take no part in the decision-making process and must not use their position ~~as a Councillor~~ to improperly influence the decision.

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3.2.5 Similarly, where an Officer or an agent submits a planning application on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. They must take no part ~~in~~ as an Officer of the Council in the processing of the application or in the decision-making process.

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3.2.6 A Councillor or Officer who either submits a planning application or Development Plan proposal on their own behalf, or on behalf of their employer as part of their job, must, whether that Councillor or Officer's involvement is apparent from the application documentation or not, notify the Development Manager and the Council's Monitoring Officer of the submission of the application or proposal. ~~That, notification~~That notification must be in writing and must be sent at the same time as the submission of the application or proposal.

3.2.7 The Council's own proposals for development must be dealt with on exactly the same basis as applications submitted by members of the public or developers and Officers must make recommendations having regard only to proper planning matters and must not have regard to any other benefit financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal save for any

material local financial consideration (see Paragraph [2-7????](#) above)..

- 3.2.8 Where a Council development is being considered, Councillors who have been involved in the decision to seek planning permission (e.g. Members of the Executive Committee) and who are also Members of the Planning Committee should declare this at the Planning Committee when the planning application comes up for determination. In such cases, Councillors are usually still entitled to take part in the debate and vote. The exception to this could be in the case of a Councillor that has been closely involved in negotiations with developers in working up a proposal that needs planning permission. Similarly, where an application is submitted by a Parish Council and the Councillor is also a Member of the Parish Council consideration will need to be given to the role the Member has played in respect of the application at the Parish Council level above the general considerations as to any declarations that may need to be made by way of an "Other Interest" in respect of the application due to Membership of the Parish Council.
- 3.2.9 The consideration of a proposal from a Councillor (or a member of his/her family) would result in the need for that particular Councillor to declare an interest under the Council's Code of Conduct and the Councillor would be required to withdraw from any consideration of the matter. The Code also provides that the Councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any less rights than a member of public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.

### **3.3 Voting and Impartiality**

- 3.3.1 Councillors must vote in the interests of the whole Borough. Their duty is to the whole community, rather than just the people living in their Ward.

- 3.3.2 Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or allegation of maladministration. Members must not make their minds up until they have read the relevant Committee reports and heard the evidence and arguments on both sides at the Committee meeting.
- 3.3.3 If a Member of the Planning Committee does declare his or her support or opposition for a proposal before the matter has been put before the Planning Committee, where that Member would be entitled to vote, he/she must make declaration of their view to the Planning Committee, and should withdraw from the Committee whilst that proposal is discussed so that the Member takes no part in the debate or voting on that particular item. This does not mean that the Members of the Planning Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Planning Committee, but the view or comment must not pre-determine or be seen to pre-determine the way that Member will consider and weigh in the balance all the issues or their vote.
- 3.3.4 Some Councillors will be Members of Parish/Town Councils as well as Borough Councillors. This situation can present problems where a Parish Council is to express a view as to whether it wishes to support, object or comment on a proposal, for example where the Parish/Town Council are consulted on planning applications. Whilst the comments of Parish Councils should concentrate on local issues this is often the stage when Borough Councillors can come under pressure to indicate their support or objection to a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils

votes on an application at a Parish/Town meeting prior to the Borough Council's Planning Committee meeting. It is quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information is made available in the Officer's report to the Borough Council. In order to avoid this potential conflict, and creating the impression that they have already made up their minds prior to the Borough Council's Planning Committee meeting, it would be preferable for Borough Councillors not to take part in the consideration of proposals at the Parish Council level (other than to listen to any debate) and not serve on Parish/Town Council Planning Committees/Sub-Committees. If a Planning Committee Member is also a Parish/Town Council Member and does decide to declare support or opposition or make comments at the Parish/Town Council then Paragraph 3.3.3 above shall apply.

- 3.3.5 The provisions of Paragraphs 3.3.4 above apply similarly in relation to Membership of another Local Authority. For example, if a planning application to be determined by the County Council comes before the Borough Council's Planning Committee for a consultation response, it may be preferable for any Borough Councillor who is also a Member of the County Council not to take part in the considerations of the application at the Borough Council level should they wish to take part in the determination of the application at the County Council level.
- 3.3.6 Where a Borough Council Member is also a Member of a Parish/Town Council or County Council and a proposal in respect of land within the Parish or the area for which the Borough Councillor is also a County Councillor is to be considered at Planning Committee or Council, the Borough Councillor should declare this at the meeting with reference to the relevant Agenda item(s) and also their position as to whether or not they have been\_ or will be\_ involved in any previous or subsequent



consideration of the proposal at the Parish/Town or County Council level.

- 3.3.7 Councillors should not organise support for or against a planning proposal should they wish to take part in the debate or voting on the proposal since this would also signal that they had made up their mind before hearing the evidence. Nor should they lobby other Councillors (see Paragraph 4.1 below). Each Councillor should make up his or her own mind on the evidence and facts presented to the relevant Committee or to the Council.
- 3.3.8 Councillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.
- 3.3.9 Given that the point at which a decision is made cannot occur before the Committee meeting, when all information is to hand and has been duly considered, it is inappropriate for any pre-Planning Committee political group meeting to be held. The use of the party whip is incompatible with the role of the Planning Committee. Less formal arrangements or understandings could also amount to maladministration. Group meetings which involve discussion of planning applications or Development Plan proposals should always commence by reference to the non-political nature of planning decision-making and with a reminder of the need for Councillors to make their decision at the Committee meeting and not previously.

### 3.4 Pre-Application Discussions/Informal Site Meetings

- 3.4.1 Most pre-application discussions take place between Officers and potential applicants. Officers of the Council will make it clear at the outset and at the end of such discussions that the advice given is personal and provisional and will not bind the Council to making a particular decision.

- 3.4.2 The advice offered should be consistent and based upon the Development Plan and other material considerations. Senior Officers will ensure that there is no significant difference of interpretation of planning policies between Planning Officers. Officers taking part in such discussions will make it clear whether or not they are the decision maker. A written record will be made of all meetings.
- 3.4.3 Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should ask prospective applicants to contact the appropriate Officer to advise on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with planning policy) they should make it clear that they will only be in a position to take a final view after ~~having considered~~ the Officer's reports ~~and~~ representations and ~~heard any~~ hearing any debate at the Committee meeting.
- 3.4.4 Formal meetings (i.e. those meetings which are more than merely the receiving and absorbing of information) of Councillors with applicants, developers and their agents should be undertaken in the presence of at least one Officer and a written record should be made of that meeting.
- 3.4.5 Informal site meetings with applicants/agents may be misinterpreted by the public, an applicant, or agent and a Councillor discussing issues on site and perceived to be more than merely the receiving and absorbing of information. Clearly, Councillors need to be able to respond to their constituents and on occasion a visit to a site for a proposed extension (for example) to hear concerns from constituents may be justified. A note should be taken and care exercised to ensure the applicant, objector and supporters are treated equally.
- 3.4.6 The fact that Councillors have discussed any such proposal with the applicant or supporters/objectors must be made clear when the

application is before the [Committee](#) for determination. Copies of notes (or e-mails) should be forwarded to the Case Officer to be placed on file.

### 3.5 **Chairman and Vice-Chairman's Management Briefing**

The Chairman and Vice-Chairman of the Planning Committee will, once the Agenda for the meeting has been produced, receive a pre-Committee briefing on matters pertaining to the management of the business of the Committee. The sole purpose for the Chairman and Vice-Chairman's Briefing is to enable the efficient management of the business of the Committee.

### 3.6 **The Committee's Decisions**

3.6.1 In accordance with the law, where the Development Plan is relevant, decisions must be taken in accordance with it unless material considerations indicate otherwise.

3.6.2 It is inevitable from time to time that decisions will be made which are contrary to the Officer recommendation. However, it is important that on these occasions the Planning Committee makes clear the reasons for making such a decision at the time. Where a Member is minded to move a resolution which is contrary to Officer recommendation (whether for approval or refusal)–clear and convincing reasons based on land use grounds should be given, and in the case of an approval, an indication of the acceptable conditions. The personal circumstances of an applicant will rarely provide convincing grounds to justify development which is contrary to the Development Plan. Officers should be given the opportunity to explain the implications of any proposed resolution that is contrary to [Officer](#) recommendation.

3.6.3 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal) the Minutes of the meeting shall contain details of the Planning Committee's reasons and any Officer explanation of the implications.

### 3.7 Regular Review of Decisions

#### 3.7.1

A review of decision-making will take place each year through consideration of an annual report to the Planning Committee. This report will include a statistical analysis of all decisions taken (specifying the Officer recommendation) during the previous year and will report the outcome of any related appeal decisions. The analysis will also identify the number of cases where Officer's recommendations were not accepted. The annual report will be considered by the Planning Committee along with any recommendations to improve quality, consistency or performance.

### 3.8 Access to Information

3.8.1 Section 2 of Part 4 (RULES OF PROCEDURE) of the Council's Constitution sets out the Rules for Access to Information considered by the Council or by any of its Committees. The Freedom of Information Act 2000 entitles any person to request in writing information held by the Council although there are some exemptions which mean that the information will not be disclosed. The Council has a procedure for dealing with requests under the Freedom of Information Act.

3.8.2 Section 3 of Part 5 (CODES AND PROTOCOLS) of the Council's Constitution is a Protocol for Member/Officer Relations which makes clear the restrictions which apply to the supply of information to Members of the Council. Councillors do not have a "roving commission" to access all information held by the Council and would not be permitted to inspect information which is not available to members of the public unless there is a genuine need for that Member to have that particular information, for example, if it is a matter being considered by a Committee on which that Member serves.

3.8.3 Confidential/~~e~~Exempt information held on the files relating to complaints

of, or investigations into, breaches of planning control (enforcement) would only be disclosed to a Member in the event that the Member has a need to know that confidential information. Similarly, it would only be disclosed to a member of the public if it did not qualify as an exemption under the Freedom of Information Act 2000.

### 3.9 Decision-Making

#### 3.9.1

Part 3 of the Council's Constitution sets out the responsibility for functions. The Council has delegated a substantial amount of its decision-making to Committees. The Council and/or its Committees have also delegated responsibility for certain decisions and functions to Officers. The Council has not delegated policy making to any Committee or Officer. The Development Plan, for example, will be a matter which requires approval by the Council. In respect of Development Management, there is a Scheme of Delegation to Officers (Part 3 of the Constitution) which enables Planning Officers to determine planning and other applications for consents or permissions and also enables Officers to make decisions on when to take enforcement action in respect of breaches of planning control.

## **4. THIRD PARTY RELATIONSHIPS**

### **4.1 Lobbying of Councillors and Circulation of Unofficial Information**

- 4.1.1 Lobbying is an attempt to influence a Councillor's view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as planning decisions, it can result in decisions being made improperly, or being perceived to be made improperly with undue influence from applicants' agents or those making representations resulting in inconsistent or erratic decision-making.
- 4.1.2 Planning decisions must be made strictly on the basis of the facts, policies and material circumstances relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular Members must not prejudge proposals before they have read the Officer's reports and considered all the evidence at the Committee meeting.
- 4.1.3 Lobbying can take many forms, including the most common:-
- Lobbying of Councillors by applicants, agents, objectors or supporters.
  - Lobbying by other Councillors.
- 4.1.4 Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. On occasions applications/agents/owners may wish to meet Councillors at the site.
- 4.1.5 Where a Councillor is asked for support by an applicant or agent, supporter or objector in respect of a planning application or related matter then the Member must state that he/she will not indicate support or otherwise until they are in possession of all the facts have had heard the Committee debate. Such contact (lobbying) must be declared at the Committee meeting.

4.1.6 Councillors on the Planning Committee who receive correspondence from people seeking to persuade them to vote in a particular way should, where that correspondence is not referred to in either the Officers' report to Committee, or on the Additional Representations Sheet circulated at Committee, copy it to the Development Manager and the Case Officer for the application.

4.1.7 Councillors who receive correspondence from people seeking to persuade them to vote in a particular way in respect of a Development Plan matter should, where that correspondence is not referred to in either the Officers' report to Council, ~~or on the Additional Representations Sheet circulated at Committee~~, copy it to the Planning Policy Manager.

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4.1.8 Developers often arrange presentations in respect of their development proposals and, provided these are within a public forum (for example at a Parish Council meeting), Members of the Planning Committee may attend and listen to such presentations and ask questions for the purposes of clarifying their understanding of the proposals. However, it is important to be aware that a presentation is a form of lobbying and bear in mind the need to avoid pre-determination. Any attendance at developer presentations must be declared at the Planning Committee meeting.

## 4.2 Gifts and Hospitality; Impartiality and Respect

4.2.1 The Council has adopted a Protocol for Councillors on Gifts and Hospitality, which specifies the circumstances in which Gifts and Hospitality may be received and the procedures to be followed. That Protocol should be read in conjunction with this document.

4.2.2 Officers must always act impartially and declare any outside interests or affiliation they may have in the questionnaire provided each year for this purpose.

- 4.2.3 If Officers have a personal interest (which would include, as well as matters relating to their own financial interests, any matters which might reasonably be regarded as affecting the well-being or financial interest of themselves, a relative or a friend) or a suspicion that they may be perceived to have a personal interest, which may affect or be perceived to affect their objective, impartial professional advice, they should declare an interest and have no dealings with the application. If the matter is considered at Planning Committee the Officer's declaration shall be made at the Committee meeting.
- 4.2.4 Members and Officers should treat each other with respect at all times and not do anything which is likely to compromise the impartiality of those involved in the process or to create a perception that decisions are not well-founded.
- 4.2.5 Members of the Planning Committee need to avoid members of the public, applicants and other Councillors seeking to communicate with them individually (whether orally in writing) during the Planning Committee's proceedings. This could be seen as seeking to influence a Councillor improperly and will create a perception of bias that may be difficult to overcome.



## 5. DEVELOPMENT PLANS AND PLANNING OBLIGATIONS

### 5.1 Development Plans

- 5.1.1 The preparation of Development Plans (including Neighbourhood Plans) through the prescribed process provides for statutory consultation and ultimately for representations to be considered on Examination by an [Independent Inspector](#).
- 5.1.2 In respect of Neighbourhood Plans, the bodies that lead and initiate proposals are Parish/Town Councils or (where there is not Parish/Town Council) neighbourhood forums. However, as well as being a statutory consultee in the neighbourhood planning process, the Council also has a direct role to play in providing advice and assistance, undertaking certain procedural steps and taking decisions on the plan throughout the process. This includes: the designation of neighbourhood areas, assessing whether legal requirements have been met, organising [Referendum\(s\)](#) and bringing the [Neighbourhood Plan](#) into legal effect.
- 5.1.3 It is vital that the same guidelines on probity are observed throughout the Development Plan process. Interests must be declared in accordance with the Council's Code of Conduct and Members must not seek to influence colleague Councillors on matters in which they are excluded from participating or voting under the Code of Conduct or due to issues of pre-determination. The Council must ensure that the land use allocation process is based on open analysis and appraisal of sites on planning grounds and that full consultation in accord with the statutory requirements is carried out.
- 5.1.4 The plan-making process is similar to the Development Management decision-making process in that it should be non-political. The basis of the planning system is the consideration of private proposals against

wider public interests. Much is often at stake in this process, particularly in the Local Development Framework process of allocation of housing and employment sites, and opposing views are often strongly held by those involved. 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.

## 5.2 Planning Obligations

5.2.1<sup>2</sup> Under Government Policy set out in the National Planning Policy Framework and planning legislation, a planning obligation should only be sought and may only constitute a reason for granting planning permission if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

5.2.2 The Planning Obligations Officer Working Group will meet to consider the appropriate obligations to impose on all major planning applications for residential development (i.e. those applications for 10 or more dwellings). The Terms of Reference of the Planning Obligations Officer Working Group are attached at Appendix A

5.2.3 In every case the heads of terms of a legal agreement are identified in the Officers' report to Planning Committee. Copies of completed agreements are made available for inspection in the Public Register at the Council Offices.

5.2.4 At all times Councillors should convey their observations/comments on legal agreement issues to the responsible Officers and not negotiate local requirements directly with developers unless accompanied by an

Officer or in a formal meeting convened by the Borough Council. This does not mean that Councillors cannot comment on or reflect/communicate the needs of a community, which should be taken into account, and Councillors can become involved as set out in Paragraph 5.2.5 below. If Councillors do become involved in discussion with developers or individuals through their Local Member or Parish/Town Council role, a declaration to that effect should be made at any Committee meeting and a written statement submitted to the Development Manager and the Case Officer for the application, summarising the exchange of views/information. A copy of the statement will be placed on the application file relating to that proposal.

- 5.2.5 Though Councillors should not normally become drawn into negotiations themselves, with instead negotiations undertaken by Officers, Officers should keep *relevant Ward* Councillors up to date and Councillors should relay matters of local concern in respect of any planning obligation provisions to [Officers](#). Involving Councillors can help identify issues early on, helps Councillors lead on community issues and helps make sure that issues do not come to light for the first time at Planning Committee.

## **6. PLANNING COMMITTEE SITE VISITS**

### **6.1 Purpose of Planning Committee Site Visits**

- 6.1.1 Given the size and geography of the Borough it is not possible to carry out site visits for all applications considered by the Planning Committee.
- 6.1.2 To ensure that Committee applications are dealt with as effectively and quickly as possible, site visits will be held prior to Committee for all outline and full applications for large scale major residential development (i.e. those of 200 dwellings or more). This does not include reserved matters applications.
- 6.1.3 Councillors will also be able to request Planning Committee site visits during the application process, whilst the Planning Committee may also choose to defer applications for a site visit (see [Paragraph 6.2.3 below](#)).
- 6.1.4 The purpose of a Planning Committee site visit is solely to enable Councillors to assess a proposal and its effect on site. The visit, along with the Officer report, will allow Councillors to formulate a view, having regard to all relevant planning matters and representations which have been received.
- 6.1.5 There are a number of reasons why Councillors may request a Committee site visit, including:
- To judge whether the visual impact of the proposed development is acceptable.
  - To consider impact on residential amenity.
  - To consider design considerations including impact on the street scene or public space.
  - To assess highway safety/traffic impact.
  - To assess the impact on areas of landscape designation including the Cotswolds Area of Outstanding Natural Beauty.
  - To assess the impact on the openness of the Green Belt.

### **6.2 Requests for Planning Committee Site Visits**

- 6.2.1 Planning Committee Site Visits will normally take place on the Friday before the Planning Committee meeting. Any Councillor may request a site visit by the Planning Committee in the same way that requests for Committee determination are made. All requests must be justified with

sound planning reasons.

6.2.2 Requests must be made as soon as possible following validation of an application. Requests must be made in writing to the Development Manager who will determine whether or not a site visit is appropriate in each individual case. ~~Those applications where it has been determined that an advance site visit will be appropriate will be set out within an "Advance Site Visits Briefing" item within Planning Committee Agendas.~~ If it is determined that a site visit is not necessary, the Development Manager will provide a written response to the Councillor who made the request to explain the reasons why this is the case.

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6.2.3 The itinerary for site visits will be circulated as soon as possible following finalisation of the Agenda for the next Planning Committee.

There will be occasions where a site visit has not been agreed in advance of the Committee meeting yet the Committee decide that a site visit is necessary. In such circumstances, the Committee is able to defer an application for a site visit which will be added to the itinerary for site visits taking place in advance of the next Planning Committee meeting. There must be sound planning reasons to defer an application for a site visit. Such reasons must be clearly set out by the proposer and recorded in the Minutes.

### 6.3 Procedure for Planning Committee Site Visits

6.3.1 In order to ensure that all Planning Committee [Site Visits](#) relating to planning matters are dealt with consistently and fairly, site visits will be carried out in accordance with the procedure set out at **Appendix C** of this Protocol.

### Attendance

- 6.3.2 All Members of the Planning Committee will be invited to attend [Committee Site Visits](#) along with Ward Members (and, where appropriate, adjacent Ward Members). ~~A single representative of the relevant Parish/Town Council will be invited to highlight any factual information relevant to the site visit.~~

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All site visits will be attended by a Planning Officer and, where appropriate, representatives of specialist consultees (for example, the County Highways Authority or Environment Agency) where they have been expressly invited by the Planning Committee or the Development Manager.

## 7. MEMBER TRAINING

### 7.1 Induction Training

#### 7.1.1

No Councillor shall serve on the Planning Committee unless he/she has attended initial induction training sessions.

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### 7.2 Updates and Continuous Member Development Programme

7.2.1 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices verbally at meetings, or in briefing notes (for example, the Member Update Sheet) and be required to participate in the continuous Member Development Programme agreed by the Planning Committee and requiring that each Member of the Planning Committee must attend as an absolute minimum 50% of the training events held in any year.

7.2.2 Group Leaders will be asked to encourage Planning Committee Members to participate in the continuous Member Development Programme and will review their nomination for the Planning Committee at the Annual Council meeting if an acceptable level of attendance is not achieved.

7.2.3 The continuous Member Development Programme training will be offered to all Members of the Council and all are strongly recommended to attend, whether or not at the time of the training they are a Member of the Planning Committee.

## PLANNING OBLIGATIONS OFFICER WORKING GROUP

### Introduction

Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) provides for the making of legal obligations in connection with the grant of planning permission, the purpose of which is to address specific issues arising out of development proposals. Legal obligations signed in accordance with Section 106 require certain actions to be undertaken, or payments to be made, to enable development proposals to be deemed acceptable and properly assimilated into their surroundings. All planning obligations must meet the test of the Community Infrastructure Levy (CIL) regulations.

To ensure that policy in respect of planning obligations is being correctly applied, and to support the identification of [Section 106](#) requirements arising from developments, the Council has formed a Planning Obligations Officer Working Group.

### Terms of Reference

1. To provide a mechanism for the formulation of Section 106 obligations from inception to completion and to monitor the implementation of [Section 106](#) obligations.
2. To enable a corporate approach to the assessment of the infrastructure and housing needs arising from new developments.
3. To provide a structured process and an evidence based approach, involving community engagement where required, to identify Section 106 funding and requirements that reflect the needs and aspirations of the community.
4. To provide a recommendation to the Corporate [Management Leadership](#) Team on the draft heads of terms for major applications of strategic importance.
5. To support Planning Case Officers in their management of the negotiating process.
6. To provide a single point of access to data on all Section 106 activities including detailed information on financial contributions made by developers and the receipt of such by the Council.
7. To provide a means for monitoring the application of Section 106 policy across the Council.
8. To monitor and produce regular monitoring reports to the Corporate [Management Leadership](#) Team outlining the progress on implementation of legal obligations.

### Meetings

Meetings will be held on a monthly basis with meetings set at least three months in advance.

Extraordinary meetings may be necessary to deal with large-scale major applications.



## Membership

| The [Working Group](#) comprises:

Representatives from Development Management, Planning Policy, Housing Strategy, Community (public open space and community facilities), Finance, Waste, and One Legal. Where appropriate, colleagues from the County Council (highways and education/libraries), Environment Agency and the [Primary Care Trust](#) (or successor organisation) will also be invited.

| **The Role of the Corporate [Management Leadership Team \(CLMT\)](#)**

| A report shall be prepared every six months advising of major cases which are likely to be reported to [CLMT](#) over the next six months.

| [CLMT](#) will identify which cases they would like to review and comment on whether the proposed obligations in each case are considered appropriate in line with corporate objectives.

**SUMMARY GUIDE OF DO'S AND DON'TS**

This must be read in conjunction with, and in the context of, the Council's Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process

**DO**

Do always involve Officers and structure discussions with developers

Do inform Officers about any approaches made to you and seek advice

Do familiarise yourself with the Council's Code of Conduct and follow it when you are representing the Council

Do keep your Register of Interests up to date

Do follow the Council's Protocol for Councillors and Officers involved in the Planning Process

Do be aware of what predisposition, predetermination and bias mean in your role – ask your Monitoring Officer if unsure

**DON'T**

Do not use your position improperly for personal gain or to advantage your friends or close associates

Do not meet developers alone or put yourself in a position where you appear to favour a person, company or group –even a “friendly” private discussion with a developer could cause others to mistrust your impartiality

Do not attend meetings or be involved in decision-making where you have a disclosable pecuniary interest or another interest which is one whereby you are excluded from participating or voting under the Council's Code of Conduct – except where you have been granted a dispensation or speaking when the general public are also allowed to do so ~~(the Council's does not have a public speaking scheme in respect of its Planning Committee)????~~

Do not accept gifts or hospitality

Do not prejudge or be seen to prejudge an issue if you want to be a decision-maker on a proposal

Do not seek to influence Officers or put pressure on them to support a particular course of action in relation to a planning application

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Do be prepared to hold discussions with an applicant and your Officers before a planning application is made, not just after it has been submitted to your authority

Do preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding

Do be aware of what disclosable pecuniary interests and other interests under the Council's Code of Conduct are – refer to your Monitoring Officer if you are unsure

Do recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role

Do stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning

Do use meetings to show leadership and vision

Do encourage positive outcomes

Do ask for training from your Council in probity matters

Do recognise that you can lobby and campaign but that this may remove you from the decision making process

Do feed in both your own and your local community's concerns and issues

Do be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

Do not compromise the impartiality of people who work for the Council

**PROCEDURE FOR PLANNING COMMITTEE SITE VISITS**

**1. Introduction**

- 1.1 This procedure relates to the carrying out of site visits by the Tewkesbury Borough Council Planning Committee in connection with the determination of planning and related applications.
- 1.2 The purpose of site visits is solely to enable Councillors to assess a proposal and its effect on site. There will be no debate about the merits of the application during the site visit.
- 1.3 Site visits subject to this protocol will be agreed in accordance with the procedure set out in [section-Paragraph 6.2](#) of the Council's 'Protocol for Councillors and Officers Involved in the Planning Process'.

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**2. Who may attend a site visit?**

- 2.1 All Members of the Planning Committee will be invited to the site visits which will normally take place on the Friday before Planning Committee meetings. Ward Members and, where appropriate, Members of adjoining Wards will also be invited.
- ~~2.2 A single representative of each Town or Parish Council in which the application site is situated will be invited to the site visit.~~
- 2.3 Relevant external consultees (for example, representatives of the County Highway Authority or Environment Agency) will also be invited where the Development Manager considers it would be useful for the Committee, or where their attendance has been expressly requested by the Planning Committee/Chairman.
- 2.4 The applicant and/or their agent, [Parish/Town Council representative](#), supporters of or objectors to the proposal, or general onlookers will not be allowed to participate in the site visit.

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**3. How will a site visit be carried out?**

- 3.1 Planning Committee site visits shall be chaired by the Chairman of Planning Committee, or in his absence by the Vice-Chairman. In the event that neither the

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Chairman nor Vice-Chairman is available, a Chair will be elected on the day from the Planning Committee Members in attendance.

3.2 Site visits will be conducted in accordance with the following:

- Site visits shall be conducted in a formal manner.
- The Chairman will open proceedings and ask for any declarations of interest. The Chairman will explain the purpose of the visit and how the visit will proceed.
- The Planning Officer will introduce the application, explaining the proposal and advising those present of any issues relevant to the site visit.
- The Chairman will seek any points of clarification.
- Local Ward Members will be asked to highlight any local issues relevant to the site visit.
- ~~The Parish/Town Council representative will be invited to highlight any factual information relevant to the site visit and answer Councillors' questions on factual matters.~~
- Following the site visit, the Chairman will invite any further points of clarification arising from the site visit. Councillors will be able to highlight any information which they feel is necessary for the Planning Committee meeting.
- The Chairman will close the visit.

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4. General matters

4.1 No formal notes of the site visit will be made. Members will debate any findings arising from the site visit at the Committee meeting.

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4.2 No hospitality will be accepted.

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Planning Committee
<b>Date of Meeting:</b>	22 November 2016
<b>Subject:</b>	Current Appeals and Appeal Decisions Update
<b>Report of:</b>	Paul Skelton, Development Manager
<b>Corporate Lead:</b>	Deputy Chief Executive
<b>Lead Member:</b>	Cllr D M M Davies, Lead Member for Built Environment
<b>Number of Appendices:</b>	None

<p><b>Executive Summary:</b> To inform Members of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal Decisions issued September and October 2016.</p>
<p><b>Recommendation:</b> To <b>CONSIDER</b> the report.</p>
<p><b>Reasons for Recommendation:</b> To inform Members of recent appeal decisions.</p>

<p><b>Resource Implications:</b> None</p>
<p><b>Legal Implications:</b> None</p>
<p><b>Risk Management Implications:</b> None</p>
<p><b>Performance Management Follow-up:</b> None</p>
<p><b>Environmental Implications:</b> None</p>

## 1.0 INTRODUCTION/BACKGROUND

1.1 At each Planning Committee meeting, Members are informed of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal Decisions that have recently been issued.

## 2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the First Secretary of State of CLG:

<b>Application No</b>	13/01215/CLE
<b>Location</b>	Green Garden Coopers Hill Gloucester GL3 4SD
<b>Appellant</b>	Mr Norman Mander
<b>Development</b>	Use of land for purposes incidental to the enjoyment of the residential dwelling at Green Garden.
<b>Officer recommendation</b>	Refuse Certificate
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	Allowed
<b>Reason</b>	<p>The Inspector concluded that, as a matter of fact and degree and on the basis of probabilities, the land was likely to have been in continuous use as a garden / amenity space in association with the residential use of dwelling known as Green Garden for a period in excess of ten years and so as to be immune from enforcement action.</p> <p>The Council also argued that the use of a caravan for residential occupation had resulted in the creation of a separate planning unit distinct from the residential use of Green Garden. However, the inspector did not consider the use of the caravan as part of the appeal and noted that his decision did not preclude the Council from taking enforcement action against the use of the caravan as a separate dwelling should it be minded to.</p>
<b>Date</b>	13.09.2016

<b>Application No</b>	15/00841/FUL
<b>Location</b>	Land Rear Of Church Row, Church Row, Gretton
<b>Appellant</b>	Spitfire Properties LLP
<b>Development</b>	Residential development for the erection of 23 no. dwellings (including 9 affordable units) and associated landscaping, a new access, public open space and associated works
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Committee
<b>DCLG Decision</b>	<b>Allowed</b>
<b>Reason</b>	<p>The Inspector identified that the proposed development would result in some landscape harm and would also have a very slight harm on the setting of the adjacent Grade II Listed Church. However the inspector gave great weight to the current lack of 5 year housing supply. The inspector also went on to identified the scheme as being of a high quality design. It was also concluded that the impact of the development on Trees and Protected Species could be effectively mitigated. The Inspector concluded that the adverse impacts of the scheme, did</p>

	not significantly and demonstrably out-weigh the benefits in accordance with paragraph 14 of the NPPF and therefore the appeal should be allowed.
<b>Date</b>	05/10/2016

<b>Application No</b>	16/00250/FUL
<b>Location</b>	Rear Of Ashley Villa, Badgeworth Lane, Badgeworth
<b>Appellant</b>	Mr Rob McKelvey
<b>Development</b>	Proposed new dwelling and a garage. Amended access.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>Reason</b>	<p>The Inspector considered that there were 3 main issues to be considered:</p> <p><b><i>Whether the proposal is inappropriate development.</i></b>  On the first issue the Inspector concluded that as the development would be on an undeveloped greenfield site outside the existing village, and there were no mechanisms in place to ensure that it would deliver affordable housing for local community needs the proposal would represent inappropriate development which, by definition, would be harmful to the Green Belt</p> <p><b><i>The effect that the proposal would have on the openness of the Green Belt and on the character and appearance of the area.</i></b>  Here the Inspector concluded the proposal would lead to a significant loss of openness to the area, thereby undermining one of the essential characteristics of Green Belts as defined in the NPPF. Furthermore, it would represent an encroachment into the countryside that would materially harm the character and appearance of the area, all contrary to Policy. The Inspector also shared the Councils concerns relating to the poor design of the dwelling.</p> <p><b><i>Whether there are very special circumstances to justify the proposed development.</i></b>  It was commented that the presumption in favour of sustainable development set out in the NPPF did not apply in this case given that the proposal represents inappropriate development in the Green Belt and only very limited weight could be given to the public benefits of providing one additional dwelling. Furthermore, future residents would be likely to be heavily dependent on the use of private motor vehicles.</p> <p>The Inspector therefore concluded that the substantial harm that would be caused would not be clearly outweighed by the other considerations, and therefore very special circumstances to justify the proposal do not exist</p>
<b>Date</b>	13.10.16



<b>Application No</b>	16/00362/PDAD
<b>Location</b>	Barn At Parcel 1819, Stow Road, Alderton
<b>Appellant</b>	J J Farm Services Ltd
<b>Development</b>	Proposed barn conversion to create a single dwelling house (Class C3)
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	<b>Appeal Withdrawn</b>
<b>Reason</b>	N/A
<b>Date</b>	17.10.16

<b>Application No</b>	15/00123/FUL
<b>Location</b>	The Wharf, Tolsy Lane, Tewkesbury
<b>Appellant</b>	Mr Nick Walker
<b>Development</b>	Retention of decking, fencing and bunded storage tank and change of use to residential curtilage. Retention and re-positioning of floating pontoon mooring and installation of additional floating pontoon.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>Reason</b>	The Inspector considered that the decking area with seating, pizza oven and hot tub could allow a sustained period of activity close to the apartments at Shakespeare Court, as opposed to the previous use in association with riverboat cruises. The previous use would have involved passengers entering and exiting boats and therefore, the noise and disturbance would not be prolonged. The Inspector also considered that odours and smoke arising from the pizza oven and wood burner would have a harmful effect on neighbours residing at the apartments above. Therefore, the residential use of the decking would enable a sustained and harmful level of noise, disturbance, odour and fumes close to residents at Shakespeare Court, contrary to emerging JCS Policy SD15. The Inspector found no harm in relation to the proposal's effect on the character and appearance of the Tewkesbury Conservation Area and flood risk, but considered that these neutral factors were outweighed by the harm identified to the living conditions of adjoining neighbours.
<b>Date</b>	17.10.16

### 3.0 ENFORCEMENT APPEAL DECISIONS

3.1

<b>Application No</b>	<b>15/00111/ENFA</b>
<b>Location</b>	<b>Ripple Landfill, Brockeridge Common, Ripple, Tewkesbury</b>
<b>Appellant</b>	<b>Mark Adam Southall</b>
<b>Enforcement Notice Served On</b>	<b>22.09.2015</b>
<b>Unauthorised Development</b>	<b>Unauthorised gypsy and traveller site.</b>
<b>DCLG Decision</b>	<b>Allowed</b>
<b>Reason</b>	<p>The Inspector found that the site lies in a sustainable location in the wider context of the National Planning Policy Framework (NPPF) although he recognised that the inhabitants of the caravan site, like many other local residents, would be likely to travel by car or other vehicle for some of their day to day needs.</p> <p>The inspector went on to conclude that the caravan use would only have a limited and local visual effect on the appearance of the rural landscape and it is not harmful to the character of the wider setting of the countryside.</p> <p>In relation to the matter of land contamination the inspector concluded that it had not been established that there remains a material risk from ground contamination. Nevertheless, he preferred the view of a single local resident that she was unaware of any recent problems, above the precautionary approach of the Council and the appellants own contaminated land consultant.</p> <p>The Inspector concluded that the proposal generally accorded with the development plan and the national guidance, and the identified harms did not outweigh the benefits of the proposal.</p>
<b>Date</b>	<b>25.10.16</b>

### 4.0 OTHER OPTIONS CONSIDERED

4.1 None

### 5.0 CONSULTATION

5.1 None

### 6.0 RELEVANT COUNCIL POLICIES/STRATEGIES

6.1 None

### 7.0 RELEVANT GOVERNMENT POLICIES

7.1 None

### 8.0 RESOURCE IMPLICATIONS (Human/Property)

8.1 None

**9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

9.1 None

**10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

10.1 None

**11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

11.1 None

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**Background Papers:** None

**Contact Officer:** Marie Yates, Appeals Administrator  
01684 272221 [Marie.Yates@teWKesbury.gov.uk](mailto:Marie.Yates@teWKesbury.gov.uk)

**Appendices:** None

# Agenda Item 9

## Advanced Site Visits Briefing

The following applications have been identified as ones which may be subject to a Committee Site Visit on the Friday prior to the Planning Committee meeting at which they will be considered:

Reference No.	Site	Description of Development
15/00749/OUT	Land Adjacent Ivy Cottage, Innsworth Lane, Innsworth	A mixed use development comprising demolition of existing buildings, up to 1,300 dwellings and 8.31 hectares of land for employment generating uses comprising a neighbourhood centre of 4.23ha (A1, A2, A3, A4, A5, A6, D1, D2, B1), office park of 1.31ha (B1) and business park of 2.77ha (B1 and B8 uses), primary school, open space, landscaping, parking and supporting infrastructure and utilities, and the creation of new vehicular accesses from the A40 Gloucester Northern Bypass, Innsworth Lane and Frogfurlong Lane.