

CP8 – PLANNING PROTOCOL

1. Introduction

1.1 The Planning code of conduct applies to all Councillors and officers who are involved in planning policy formulation, development promotion, pre-application advice and the consideration of planning / related applications.

1.2 Why we have a protocol for planning

This Planning code of conduct governs the conduct of officers and Councillors and applies the Code of Conduct for Councillors and Co-opted Members (Part 6 CP1) and the Code of Conduct for Officers (Part 6 CP2) to the planning process. The aim of this additional Code of Conduct is to ensure the integrity of the planning system is preserved, and that it is, and is seen to be, open and fair to all parties. While this Code is advisory it is important that it is followed as it will be taken into account in any investigation under the Council's complaints procedure and in any investigation by the Local Government Ombudsman.

1.3 In dealing with planning and development matters the reputation of the Council depends upon how Councillors, the public, and developers are dealt with and their perception of the way in which applications are determined and decisions made.

1.4 Determining a planning application is a formal process involving rules of procedure, rights of appeal, and an expectation that the Council will act reasonably and fairly. Those involved should always be alert to the possibility that perceived failures in the planning process may result in the following risks to the Council:

- a) Judicial review of the way the decision was arrived at;
- b) Complaint to the Ombudsman on grounds of maladministration; and/or
- c) Complaint to the Monitoring Officer that a Councillor has breached the Code of Conduct.

1.5 The Code of Conduct applies at all Council, Cabinet, and Committee meetings, to all decisions by Councillors and officers, and all business when planning and policy decisions are made, as well as to occasions when informal advice and guidance is provided.

1.6 The successful operation of the planning system relies on mutual trust and an understanding of the roles and responsibilities of those involved in the process. Compliance with the Code should ensure that Councillors and officers act in a way that is not only fair and impartial but is clearly seen to be so.

2. Officer Roles

2.1 The function of officers is to advise and assist Councillors in matters of planning policy and in their determination of planning applications and enforcement issues by:

- a) providing impartial and professional advice
- b) making sure that the information relevant to the decision to be made is set out in a report for Councillors
- c) providing analysis of the issues

- d) giving a clear recommendation in any report to Councillors
- e) carrying out the decisions of the Council made in Committees
- f) disclosing to the Council their direct or indirect pecuniary interests under section 117 of the Local Government Act 1972
- g) acting in accordance with the Code of Conduct for Officers at Part 6 CP2
- h) Complying with the Code of Professional Conduct maintained by the Royal Town Planning Institute (where appropriate) and any other applicable professional code of conduct.

3. Councillors' Role

- 3.1 All Councillors are expected to comply in all respects with:-
- The Code of Conduct for Councillors and Co-opted Members at Part 6 CP1
 - The Council's Constitution and the procedure rules, codes and protocols that it contains.
 - The Planning Code of Conduct
- 3.2 Training on planning is mandatory for all Councillors wishing to exercise planning decisions. Only Councillors who have received appropriate training will be permitted to sit on the Planning & Highways Regulation Committee or to take part in the determination of planning matters at Area Committees. The Assistant Director Place Making and Planning is responsible for determining the frequency and content of any such training.
- 3.3 Councillors set the Council's planning policy and (except where such responsibility is delegated to officers) determine planning applications within the context of that policy. Councillors must not use their position as a Councillor improperly to confer on or secure for themselves or any other person an advantage or disadvantage.
- 3.4 When Councillors come to make a decision on a planning matter, they must:
- a) Act fairly and openly
 - b) Approach each case with an open mind
 - c) Refer to the Development Plan, National Planning Policy and relevant material considerations in decision making
 - d) Carefully weigh up relevant issues
 - e) Determine each case on its own merits
 - f) Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated
- 3.5 Whilst Councillors represent those who live in the wards for which they have been elected, including those who did not vote for them, their overriding duty is to the whole community.
- 3.6 Councillors alone have the responsibility to decide what view to take; they should vote in the interests of the whole community and not favour any individuals or groups nor put themselves in a position where they appear to do so.
- 3.7 Whilst Area Committees have particular responsibilities for part of the Borough, they should exercise their powers and duties in the interests of the whole community, they should consider all planning policies and relevant material considerations which apply to the particular application and disregard all matters that are not relevant planning considerations in coming to a reasoned judgement.

4. The Conduct of Councillors

- 4.1 Councillors have a variety of legitimate and important roles to play in the planning and development process. However, it is necessary that they understand the extent to which it is appropriate for them to be involved in any situation so as to avoid conflicts of interest, or the appearance of impropriety. For example it will be inappropriate for a Councillor to promote a development, and take part in the determination of a related planning application. Issues that are likely to arise are addressed below:-

Policy Formulation

- 4.2 All Councillors have a role to play in the consultation stages of policy formulation. As part of this role Councillors are entitled to make representations (individually or as members of committees) and these will be considered in the policy making process . As the Development Plan is part of the Council's Policy Framework all Councillors are involved in the adoption of planning policy. Cabinet Members have particular responsibilities for formulating planning policies. A conflict of interest will not subsequently arise when Councillors have regard to those policies in determining planning applications.
- 4.3 However, Councillors may need to consider their position when a planning application falls for consideration at a time when a site or area specific policy is being formulated or reviewed with the intention of addressing the particular type of development which is the subject of the application. Greater care will be needed when the policy formulation or review is instigated after the planning application was made and will depend upon the Councillor's involvement in promoting the policy as it could be construed that the Councillor has predetermined the planning application. In such a situation, Councillors should consider whether it would be appropriate to declare an interest in the particular application and not take part in its determination.

Development Promotion and the determination of planning applications

- 4.4 Cabinet Members have a legitimate role to play in the promotion of development, and this will arise through the Councils as well as broader regeneration activities. Development promotion may take the form of providing grant aid, developing its own land, use of CPO powers, involvement in partnership arrangements, and by the production of planning and development briefs, masterplans and or strategic regeneration frameworks. Care must be exercised in subsequently determining planning applications so as to avoid any suggestion of pre-determination of the application.
- 4.5 It is important to recognise that this role may give the impression that the particular development has both the approval of the Council and the Councillor involved. Cabinet Members should therefore take care to exercise any promotional activity in a manner consistent with planning policies and that where they have been involved with promotional activity of a particular scheme they should not take part in the determination of a planning application for the development. The main points on each aspect of promotion are:-

(i) Grant Aid / funding

If grant aid or funding is awarded for a particular development that requires planning permission, any Councillor who has participated in the decision to award the grant should declare an interest in the subsequent application and not take part in its determination. No interest arises on an application for grant funding to

carry out a development in accordance with a previously determined planning application even if the member concerned took part in its determination.

(ii) Developing Council Land

It is a statutory requirement that the officer or committee responsible for managing land cannot determine a planning application concerning that land. This mainly affects officer delegations and to a very limited extent area committees (in respect of highways for which the relevant area committee is responsible). The Planning and Highways Regulation Committee has no responsibility for managing land. A Cabinet Member responsible for managing the land should declare an interest and not take part in the planning decision. Where the Corporate Director for Place Development and Regeneration manages the land, that fact must be stated in the committee report, the officer making any recommendation must be identified and it must be made clear that the recommendation is the personal recommendation of that officer.

(iii) CPO

There is no need for a Councillor to declare an interest in a decision to make a Compulsory Purchase Order to enable development in accordance with planning permission. A Cabinet Member having taken part in the decision to make a CPO for a particular development should not take part in the determination of a subsequent planning application for that development as he/she could be construed as having pre-determined the planning application.

(iv) Partnership Arrangements

A Cabinet Member who has been involved in approving a partnership arrangement for the carrying out of a particular development should not take part in the determination of the subsequent planning application but an interest need not be declared on considering a partnership arrangement to carry out a development in accordance with a previously granted planning permission.

(v) Planning and Development Briefs

Cabinet Members are involved in approving planning and development briefs and the relevant area committee may be consulted upon the brief. This would not normally prevent any Councillor taking part in the determination of a subsequent planning application, unless the Councillor concerned made comments specifically about the type of development the subject of the application and those comments could be construed as pre-determining the planning application.

- 4.6 Once a planning application has been determined, this conflict would no longer exist and promotional activity would be acceptable.

Compulsory Purchase

- 4.7 The compulsory acquisition of land and buildings may be undertaken to secure the proper planning of an area. This process may provide Councillors with particular information (sometimes confidential) which could be used to personal advantage. For

example advance warning of potential CPO action could lead an interested party to sell or acquire property due to the future implications for its value. Councillors dealing with such matters should therefore ensure that at all times, they maintain strictest confidentiality until it is in the public arena. If a Councillor owns land which is affected by a proposal, that Councillor has a disclosable pecuniary interest and must not be involved in any way with the CPO, must declare the interest at any meeting attended, leave the room whilst the matter is considered, and must not attempt to influence the decision in any way.

Planning Applications

- 4.8 Planning applications should be determined in accordance with the development plan, and national planning policy unless there are very good reasons, which should be stated in the decision. Such reasons must be defensible, reasonable and be related to planning. It is important that all Councillors involved in determining planning applications do so impartially and without any appearance of impropriety. Applications which do not accord with the development plan may only be granted by Planning and Highways Regulation Committee unless those policies have been deemed out of date as a consequence of a change in national planning policy or the imposition of national development management policies.
- 4.9 Councillors may give their views to officers on planning applications in the same way as consultees, and any representations will be dealt with in the same way as other representations. If the Councillor has formed a view in advance of the Committee the representation is likely to be construed as prejudging the planning application. The Councillor should consider whether to declare the interest and if declared, leave the room when the matter is considered by the Committee. The Councillor may make representations in accordance with rights given to members of the public attending the same committee.
- 4.10 Instructions may only be given to officers by a decision of the Planning and Highways Regulation Committee or an Area Committee within the scope of the powers delegated to them. Councillors must not attempt in any way to instruct officers or influence the content of the officer's report or any recommendations. Councillors are free to express any views they hold about an application through the open and accountable channels within the planning process (see section 11 on lobbying) and should not do so until all the evidence has been reported at the committee meeting, if they intend to take part in the decision.

Delegation of decisions

- 4.11 Decisions on planning applications cannot in law be delegated to individual Councillors, but may be delegated to officers, either unconditionally or after consultation with the Chair of the Committee, or particular Councillors identified in the Committee decision. In these circumstances, the decision is made by the officer concerned, but if there is a difference of opinion between any of the Councillors consulted and the officer, the officer will refer the matter to the next meeting of the committee concerned.

5. Gifts and hospitality

- 5.1 The Code of Conduct at Part 6 CP1 obliges all Councillors to register with the Monitoring Officer gifts or hospitality within the previous twelve months with an estimated value of at least £50.00 (individually or in total) by written or email notification. However, Councillors dealing with planning matters (this would include planning proposals, potential development, compulsory purchase orders or from someone who is actively promoting a policy change) should be particularly alert to

the possibility that they may be called upon to determine, or make representations on, a planning application submitted by someone who has offered them a gift or hospitality, even if an application has not yet been submitted. If a gift or hospitality is received from an actual or potential planning applicant, even if its receipt is registered or its value does not exceed £50.00, the recipient should still consider what the public perception might be. All gifts of whatever value should be refused if there is any reason to suspect that the person offering them is an actual or potential planning applicant.

- 5.2 If a gift is accepted from an actual or potential planning applicant, whatever its value, Councillors are advised to notify the Monitoring Officer. If acceptance of a degree of hospitality by Councillors and/or officers is unavoidable, it should be ensured that this is at a minimum and that its receipt is notified. Councillors and officers should also consider whether it would be appropriate in a particular case to notify instances where gifts or hospitality have been offered, but refused. If it is, written notification should be sent to the Monitoring Officer.

6. Prejudicial Interests in Planning Matters

- 6.1 Councillors who have substantial property interests, or other interests that would prevent them, on a frequent basis from voting, should avoid serving on the Planning and Highways Regulation Committee and are likely to find that their ability to participate on planning matters at Area Committees is significantly restricted.
- 6.2 If a Councillor has a prejudicial interest, he/she must declare it and leave the meeting whilst that application is being considered but will be allowed to be present in order to make representations, answer questions, or give evidence on the application under the Council's procedures for public speaking at area committees. Such a Councillor may also make written representations on the application as a member of the public, but must not attempt to improperly influence the decision. The guiding rule is that Councillors must not use their position to further a private, or personal interest, rather than the general public interest, or give grounds for such suspicion. The test is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice the member's judgement of the public interest.
- 6.3 Advice is available on individual circumstances from the Council's Monitoring Officer or Deputy Monitoring Officer, although ultimate responsibility remains with the Councillor.

7. Canvassing opinion

- 7.1 It is perfectly proper for Councillors to consult the public in order to ascertain their views on any matter and such action need not be declared at the Committee meeting when the matter is considered. However, Councillors should be careful not to conduct the consultation in a way that promotes a particular outcome; if they do, they should declare their interest and not take part in the decision.

8. Preliminary Enquiries and Community Engagement

- 8.1 Pre-application discussion of development proposals is considered to be good practice.. These discussions may need to be held in confidence with officers, for example when a developer has an

option on acquiring land, or is in competition to acquire it and disclosure of proposals could prejudice a negotiating position. The role of the officer in these discussions is without prejudice to any decision of the Council, to explain and interpret the relevant policies which will apply to a proposal and to provide their professional opinions.

- 8.2 In many cases, developers will be able to share their proposals with the public and the Council before making an application. This allows developers to inform the public at the earliest opportunity and undertake meaningful community engagement to inform and shape the development to meet community aspirations and address the policy requirements.
- 8.3 Early discussions with officers and in appropriate circumstances with relevant Councillors about significant future development proposals are therefore encouraged, provided that they do not become or are seen to be part of the lobbying process. In order to avoid such problems the following requirements will apply to pre-application discussions about development proposals (but not general enquiries):-
- 8.4 It should always be made clear at the outset that the discussions will not bind the Council to make a particular decision and that any views expressed are provisional and not those of the Council. It is unlikely that all relevant information will be available, and formal consultations with interested parties may not have taken place. Officers and Councillors involved with pre-application meetings should clearly explain their position and roles in the process.
- 8.5 Any advice by officers must be impartial, should be consistent and based upon the development plan, National Planning Policy and material considerations. There should be no significant difference of interpretation of planning policies by planning officers.
- 8.6 A written note should be made of a significant meeting where specific proposals are discussed in detail, which should be retained on the pre-application file. Two or more officers should attend potentially contentious meetings. The officer should send a follow up note to the (potential) applicant, recording the matters discussed and any documentary material which has been left with the Council. A note should be taken and retained on file of similarly potentially contentious and significant telephone discussions. Where the developer prepares a note, this should be checked for accuracy and retained on file and the developer should be informed of any material inaccuracies.
- 8.7 Care will be taken to ensure that advice is **impartial** so as to avoid the appearance that any subsequent committee report is advocating **biased** advice. No indication should be given at the pre-application stage as to what recommendation will be made when the application is submitted.
- 8.8 Where Councillors are involved in meetings with developers the following additional requirements will apply:-
 - (a) The Assistant Director Place Making and Planning, or their nominated representative should be present at the meeting to advise Councillors whenever possible;
 - (b) Councillors involved with such discussions should notify the planning officer in writing so that their involvement can be recorded on the relevant file.
- 8.9 Community engagement about a specific development proposal is often best undertaken by the prospective developer at the pre-application stage. This will generally be considered when a developer is certain of making an application and

wishes to inform the community and canvass opinions about the proposals, so that they can be taken into account. It is not the role of the Council or Councillor to organise this engagement. However, if the Councillor did decide to organise a meeting, the developer should be invited as well as the public and the purpose should be clear, that it is to obtain information and views from all sides.

- 8.10 It is important that Councillors should be able to fulfil their role as community representatives during the community engagement stage of a planning application. If a Councillor wishes to participate in the determination of the planning application, care should be taken to ensure that the Councillor facilitates an exchange of views between the developer and the community without taking steps that could be seen as pre-judging the outcome of the application. If the Councillor articulates views held by the community, it should be made clear that they are not necessarily the views of the Councillor and that they will only make a decision when the application is presented to the committee for consideration along with the accompanying officer advice and information.
- 8.11 This allows Councillors to play an important and constructive role within the pre-application process, which respects their position as community representatives, whilst preserving their essential impartiality when deciding upon a planning application.
- 8.12 When Councillors take an active part in preliminary discussions/community engagement exercises, it is recommended that they provide a note setting out their involvement for the Assistant Director Place Making and Planning to retain on the file.
- 8.13 Where a councillor decides to participate in a community engagement exercise and the circumstances are such that a reasonable and fair minded member of the public with knowledge of what the councillor has said would be likely to conclude that the councillor has a closed mind on the application, the councillor must declare the circumstances and leave the room whilst the application is determined unless making representations in accordance with rights given to any member of the public attending the same meeting.

9. The Conduct of Officers

Impartiality

- 9.1 Officers dealing with planning and development matters must always act impartially and comply with the **Code of Conduct for Officers at Part 6 CP1**. Officers whose posts are politically restricted under the Local Government and Housing Act 1989 may not be a Councillor on Stockport Council or another council.
- 9.2 Officers dealing with planning matters generally have specific roles, which reflect the split of functions between the executive and non-executive functions. The principles

of the code which apply to Councillors, also apply to officers so that an officer who is involved with the promotion of a development should not also provide advice to the officer or committee that may influence the decision

Compliance with RTPI Code, Standing Orders and Conventions

- 9.3 Officers providing planning advice (whether Chartered Town Planners or not) shall comply with the Royal Town Planning Institute's Code of Professional Conduct and with the Council's Constitution governing the conduct of the Council's business.

Officers' Declaration of interest

- 9.5 Officers dealing with planning and development matters, should declare an interest in any application in which the officer has an interest which would be regarded as disclosable pecuniary interest, a personal or prejudicial interest, or in respect of which the officer has objected, expressed views, or been consulted in any capacity other than as an officer of the Council. Where an officer has an interest in an application, he/she should have no involvement with its processing and must notify the Council's Monitoring Officer who will register the interest. The interest should also be declared at any committee meeting at which the application is considered. All interests declared will be recorded in the minutes of the committee meeting.

10. Council Development and Applications by Councillors and Officers.

Duty not to act as agent for an applicant

- 10.1 Councillors and officers should never act as agent for applicants to the Council for planning permission, except in respect of the Council's own planning applications. Officers involved in processing planning applications should not act for the Council in its capacity as applicant, or in promoting the development. Applications and objections to applications by Councillors and officers are to be registered with the Monitoring Officer.
- 10.2 Councillors and those officers who deal with planning matters must, when submitting their own planning applications notify the Council's Monitoring Officer, who keeps a register of such applications. They should also notify the Assistant Director Place Making and Planning who will ensure that the applicant takes no part in the processing, consideration or determination of the application.
- 10.3 Applications by Councillors, chief officers, Corporate directors, Assistant Directors and applications by officers who deal with planning matters, will not be dealt with under powers delegated to officers but will be determined by the Planning and Highways Regulation Committee or the appropriate Area Committee.

The Council's planning applications

- 10.4 Planning applications submitted by or on behalf of the Council and applications affecting land in which the Council has an interest, should be treated in the same way as those submitted by private developers, in accordance with national practice and planning guidance. Such applications will be determined having regard only to material planning considerations and all other matters will be disregarded.

11. Lobbying of and by Councillors regarding planning applications Councillors' response to lobbyists

- 11.1 Lobbying by both applicants and objectors is a normal and perfectly proper part of the political process but can lead to the impartiality and integrity of a Councillor being called into question. When being lobbied, Councillors, and Councillors of the committee which would determine the application in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments. They should restrict themselves to giving procedural advice, and suggest to those who are lobbying, that they should speak or write to the relevant officer so that their opinions can be included in the officer's committee report and advise them that there is an opportunity for public speaking at the Area Committee. If Councillors do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all relevant evidence and arguments at committee.
- 11.2 Planning applications must be processed and determined in a transparently open and fair manner, taking account of all material evidence presented, before arriving at a decision. **Councillors who commit themselves before hearing all the arguments and evidence are at risk of being perceived to be biased.** Whilst Councillors may begin to form a judgement about an application early in the planning process, they should not openly declare which way they intend to vote in advance of hearing the evidence and arguments at the committee meeting.

Group meetings

- 11.3 Whilst it can be expected that discussions about particular applications will take place at political group meetings, Councillors are required to exercise their own judgement on the basis of the information before them when the vote is taken. Political group meetings should not be used to decide how Councillors should vote. The use of political whips is contrary to the Code of Conduct and constitutes maladministration.

Lobbying and requirements relating to public meetings

- 11.4 Unless Councillors have decided to declare an interest in an application and not take part in the decision, they should avoid organising support for or opposition to a planning application and avoid lobbying other Councillors.

Declarations of intentions and campaigning

- 11.5 As a general principle, and taking account of the need to make decisions impartially, Councillors involved in decision making on planning should not organise support or opposition to a proposal, lobby other Councillors, act as an advocate, or put pressure on officers for a particular recommendation. It is recognised that a Councillor whose ward is affected by a controversial application that is the subject of much lobbying is in a difficult position. He or she needs to find the right balance between the duty to be an active ward representative and the duty, as a Councillor, to the whole community. If a committee Councillor responds to lobbying by publicly declaring support for a particular outcome, or campaigns for it, although not amounting to a prejudicial interest, the Councillor should make an open declaration at the committee meeting and not be present during consideration of the application. Before adopting such a high profile, or actively lobbying for a particular outcome, Councillors should consider carefully the severe restrictions that such action would place on the Councillor's

duties to represent the views of the electorate as a whole and to take part in making the decision.

Lesser forms of support for a particular outcome

- 11.6 Councillors may of course empathise with a particular body of opinion short of the circumstances outlined in paragraph 11.8, whilst waiting until the determining committee and hearing all the evidence before making a decision. The striking of the balance is entirely the responsibility of the Councillor concerned, and whilst a Councillor may be strongly influenced by the views of others and of his/her party in particular. It is the Councillor's responsibility alone to decide what view to take on any question which Councillors have to decide. A Councillor should never do anything as a Councillor which he/she could not justify to the public.
- 11.7 Section 25(2) of the Localism Act 2011 provides that, when a court is considering the validity of the Council's decision as a result of allegations of bias or predetermination, a decision maker is not to be taken to have had a closed mind just because they have previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter that was relevant to the decision. However, the expression of a settled prior view in circumstances where a reasonable and fair minded member of the public with knowledge of what the councillor has said and done would be likely to conclude that the councillor has a closed mind on the application, combined with voting in accordance with that settled view should be avoided.
- 11.8 Councillors who are unsure whether an interest should be declared should seek the advice of the Monitoring officer, Deputy Monitoring officer or committee managers, although the decision rests with the individual Councillor.
- 11.9 Public meetings concerning planning applications are sometimes organised by objectors or community groups.. Councillors who attend public meetings of this type should comply with the Code of Conduct and treat the attendance as being lobbied. This is different from pre-application community engagement meetings, about which advice is given above in section 8.

12. Procedure for calling up planning applications

- 12.1 The procedure for calling up planning applications is outlined in the call up procedure appended to the planning protocol. To validly call up a planning application, a minimum of 2 Councillors who represent the ward shall confirm that they wish to call up the application for consideration at an Area Committee. This must include clear planning reasons for calling in the proposed application.

13. Officer Reports and Records of Decisions

Committee Reports on Planning Applications

- 13.1 Written reports will be provided on all applications considered by committees. Committee reports on planning applications should be accurate and include a clear and succinct exposition of the appropriate matters listed below:
- Description of the proposed development.
 - Description of the application site and surrounding area.
 - Relevant paragraphs of the National Planning Policy Framework
 - Relevant National Development Management Policies – where they have been introduced
 - Relevant Development Plan policies.

- Applications not in accordance with the Development Plan should be identified.
- Applications subject to Environmental Impact Assessment should be identified.
- Relevant planning history of the site and lawful use where appropriate.
- A summary of objections and comments made in favour of an application
- A summary of the views of those who have been consulted.
- The main planning issues/considerations and a professional appraisal.
- A written recommendation based on the appraisal of the issues wherever possible.
- If
 - the recommendation is contrary to the provisions of the development plan, the material considerations that justify overriding the policy should be clearly stated. Where a section 106 agreement is proposed, the matters to be controlled.
 - Reasons for refusal or significant conditions as appropriate.
 - Committee comments and recommendations will be added to those applications that are submitted to the Planning and Highways Regulation Committee for determination.

13.2 If the Area Committee recommends or the Planning and Highways Regulation Committee decide that a team of Councillors should visit the site (see Section 14) a succinct report of the recommendations of the visiting team will be submitted to the following meeting of the Planning and Highways Regulation Committee by the next meeting of that Committee.

13.3 Officers will provide oral reports to committee to summarise or update the written report.

Planning conditions and reasons

13.4 Conditions will, where appropriate, be in the Council's standard form. Significant non-standard conditions should be drafted by the planning officer and referred to in the committee report. Where the committee decides to add or amend conditions, it should provide the reasons for so doing. The officer will draft the conditions in accordance with the committee's instructions. All decisions, including reasons for refusal and conditions imposed on planning permissions granted will be posted on the Council web site.

Reasons for deferral

13.5 Where a committee decides to defer the consideration of an application, the reasons should be given and minuted.

Written record of decisions by officers

13.6 Decisions on planning applications determined by officers will appear on the Council web site. A written report must be placed on the application file of the planning considerations, the decision, and the reasons for it and shall be available to view on the Council's website.

14. Decisions contrary to officer recommendations and/or the development plan

14.1 Section 54A of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that planning decisions be taken in accordance with the development plan unless material considerations indicate otherwise.

14.2 If the committee makes a decision contrary to the officer's recommendation (whether grant or refusal), a detailed minute of the committee's reasons should be made and a copy placed on the application file. The reasons should be clear, convincing and should be legally robust. The officer should also be given the opportunity to explain the implications of the contrary decision including making reference to appeals to the Planning Inspectorate or referencing the implications for the Council's own planning

policies and application.

- 14.3 The personal circumstances of an applicant will rarely provide sufficient grounds for not following policy unless planning policy allows this, e.g. a dwelling in the green belt needed for the accommodation of an agricultural worker.

14.4 An experienced legal officer should attend committee meetings where sensitive or complex applications are under consideration or where legal issues may arise to ensure that procedures are properly followed and that the committee receives appropriate professional advice.

15. Visiting Team Inspections

Area Committees and Planning & Highways Regulation Committee

15.1 Site visits are useful in cases of uncertainty in enabling members to acquire the fullest appreciation of the nature of the site and the impact of the proposed development upon it and adjoining properties. They are also valuable in helping to clarify thought where an application is of a controversial nature. They may however prolong the decision making process and should therefore be agreed to only for the most substantial of reasons.

15.2 Area Committees may recommend site visits having regard to the following criteria;

- (i) Applications which require the judgement of members based on site characteristics or visual interpretation – e.g. impact of amenity, effect on highway safety and traffic flows, effect on the character of an area, effect on the character or setting of a listed building or conservation area, effect on townscape, landscape, or other aspect of environment etc;
- (ii) Proposals which relate to new or novel forms of development and which may require a visit to an existing establishment as well as to the site of the proposal in order to appreciate the potential planning implications; and
- (iii) Developments which have been commenced or completed, which if refused permission would normally require enforcement action to remedy the breach of planning control and a site inspection would assist in determining the expediency of such action, and should state the reasons for the recommendation.

15.3 The Planning and Highways Regulation Committee may also decide that a site visit should take place having regard to the above criteria.

15.4 Site visits are held after the area committee and prior to the meeting of the Planning and Highways Regulation Committee at which the application will be considered and should state the reasons for the recommendation.

15.5 In consultation with the Chair of the Planning and Highways Regulation Committee the Assistant Director Place Making and Planning, will:-

- (i) Set the dates and times of site visits at the conclusion of the meeting of the Committee. The date of the visit will be between the next meetings of the Area Committee and the Planning and Highways Regulation Committee;
- (ii) Determine sites to be visited by teams at the conclusion of each area committee cycle of meetings in the light of the reasons specified by the Area Committee and the criteria set out in paragraph 1 above.

15.6 Applicants or their site agents will be notified by letter of the date, and where possible the approximate time

and purpose of the site visit and informed that representations in support of the application will not be heard at the visit.

- 15.7 Members of the visiting team will meet at the Town Hall and with the planning officer and officer from Democratic Services to be transported to each site to be inspected. On arrival at each site the planning officer will introduce themselves and the visiting team to the applicant and, if present, the agent. Members are asked to have read the relevant written reports ahead of the site visits which have been published and circulated to members of the Planning and Highways Regulation Committee.
- 15.8 At each site the planning officer will describe the application, identify the material considerations, report any objections and the comments of the Area Committee and may make recommendations as to how the application should be determined.
- 14.9. Site visits are not formal committee meetings and generally take place on private land. Members of the public are therefore not entitled to be present and the visiting team may enter the land only with the owner's consent.
- 14.10 The purpose of site visits is to enable members of the visiting team to see at first hand the nature and physical characteristics of the site and adjoining premises, to assess the impact of the development and to where they choose to do so make recommendations to the Planning and Highways Regulation Committee as to how the application should be determined. Site visits are not an opportunity for objectors to present their views in person to members of the visiting team or for the applicant to promote the development.
- 14.11 Councillors should be mindful of the need to remain with the visiting team group to avoid any appearance of impropriety of being lobbied.
- 14.1. As a visiting team will generally have to enter private land it is not possible to prevent the applicant from being present but the applicant or agent should be discouraged from making representations to members of the visiting team. The applicant may answer questions on the proposed development but will not be allowed to address members of the visiting team on the merits or benefits of the application.
- 14.13 Objectors will not be notified of the date and time of the proposed visit but this information will be released in response to enquiries, in which case they will also be informed of the restrictions on their attendance. Should any objectors be present at the site visit they will not be allowed to address the members, their presence will be pointed out to the applicant and it will be entirely at the applicant's discretion whether or not they will be allowed to enter the property.
- 14.14 Council members who are not members of the visiting team may attend the site visit in the same capacity as an objector but may not, without the consent of the visiting team, speak and may not be present when the visiting team formulate their recommendations.
- 14.15 Democratic Services will prepare a report of the observations of the visiting team which will be submitted to the following meeting of the Planning and Highways Regulation Committee. This report will be dispatched with the next Committee agenda papers but if, due to the timing of the visit, this cannot be done it will be made available to all members of the Planning and Highways Regulation Committee as soon as possible.
- 14.16. The visiting team's report will be released to any enquirers following the team's visit.

16. Scrutiny of Decisions (The Review of Outcomes Tour)

- 16.1 The Planning and Highways Regulation Committee will undertake an annual review of outcomes tour and will invite attendance from at least 1 Councillor from each area committee. The aim is to inspect sites in each of the area committee areas of the Borough where developments have been carried out following the grant of planning permission in order to assess the quality of the decision.
- 16.2 The Assistant Director for Place Making and Planning will, after consulting Area Committees, submit to the Planning & Highways Regulation Committee each municipal year a list of sites recommended for visit. The list will include examples from a range of developments, to reflect the nature of activity within the borough. Councillors will be provided with a set of briefing notes and questions for each of the site.
- 16.3 Following the annual visit the Assistant Director for Place Making and Planning will submit a report to the Planning and Highways Regulation Committee (and then to Area Committees) on issues raised at the annual visit to assist the Committee in deciding whether policies or practices need to be reviewed.
- 16.4 In addition, the visiting team shall whenever practical, inspect one completed development each cycle and report to the Planning and Highways Regulation Committee on the quality of the decision and any matters which should be addressed.

17. Arrangements for Public Speaking at Area Committees

Procedure for considering applications

- 16.1. Ordinarily the Chair of an Area Committee considering a planning application should follow the procedure set out below unless there are compelling reasons for altering the procedure:
- 16.2 The Committee will consider first those applications upon which members of the public wish to speak.
- 16.3 The Committee has a report on each application that sets out all material considerations and the officer's recommendation.
- 16.4 The planning officer will provide an introduction to the application and report any matters that have arisen since the publication of the report, e.g. the receipt of further letters.
- 16.5 Councillors of the Committee may ask questions of the planning officer.
- 16.6 The Chair of the Committee will invite anyone opposing the application to speak
- 16.7 Normally only one person is allowed to speak for the objectors, but the Chair may allow others to speak
- 16.8 Members of the Committee may ask questions of the objector to clarify any points that have been made.
- 16.9 Members may not ask the speaker if they have anything further to add.
- 16.10 The applicant or the applicant's representative will be invited to speak in support of the application and on issues raised by objectors. In the absence of the applicant any

other person wishing to speak in support of the application may do so.

- 16.11 Members of the Committee may ask the applicant/applicant's representative questions to clarify the proposals or their response to objections.
- 16.12 Each speaker is allowed a maximum of three minutes.
- 16.13 The planning officer will be invited to comment on issues raised by speakers.
- 16.14 The Committee will debate the issues and make a decision on the application
- 16.15 Objections/applicants can only speak on the first application and not at any subsequent meeting when it is considered unless the application has been materially altered.
- 16.16 Members of the public are not allowed to take part in the debate, and may not question officers, members, or applicants whilst the Committee is considering the application.
- 16.17 Anyone arriving after an application has been dealt with will not be allowed to speak on that application.

18. Complaints and Record Keeping

- 18.1 Compliance with this Code should reduce the likelihood of complaints arising. However, anyone wishing to make a formal complaint about an officer or the processing of a planning application should write to the Assistant Director for Place Making and Planning , Stopford House, Piccadilly, Stockport SK1 3XE (emma.curle@stockport.gov.uk). Any complaint that a Councillor has not complied with the Code of conduct for Local Authority Members should be sent to the Council's Monitoring Officer vicki.bates@stockport.gov.uk A copy of the Council's complaints procedure may be obtained from the Council web site www.stockport.gov.uk)
- 18.2 The Assistant Director for Place Making and Planning will so far as possible ensure that every planning file (including enforcement and development plan files) contains an accurate account of events and an easily understood explanation of the decision and how and why it was reached. This applies equally to decisions taken by Committees and officers and to enforcement and development plan matters.

“CALL-UP” PROCEDURE FOR DELEGATED APPLICATIONS

The Call-up procedure requires a minimum of 2 Members from the Area Committee where the application site is located to be considered a valid call-up.

This procedure must be followed an application, which is delegated to be determined by the Assistant Director Place Making and Planning / Deputy Chief Executive , is to be referred to an area committee for determination.

-A dated weekly list of all planning applications received will be published on the Council’s website.

This clearly indicates applications which are subject to call-up.

- Members may only call up an application if it is within the boundary of the area committee on which he/she serves, or within the boundary of an adjoining area committee and the application has planning implications for the area committee on which the member serves.

- Where members require a delegated application to be decided by an area committee, the Assistant Director for Place Making and Planning, must be notified in writing of the request, within 14 days of the publication of the application on the weekly list.

- The information required to call up an application is the application number, the address of the development site, the name of the members calling up the application, the date of call up and the planning reason for calling up the planning application. Where no planning reasons are given, this will not be considered to be a valid call-up.

- Call-ups shall be - made using the Member call-up sheet and shall be sent by email to the planning officer directly and copied to Business Support at planning.dc@stockport.gov.uk

- It is the responsibility of the calling up members to ensure receipt of the call up request and it is recommended that a returnable electronic receipt should accompany e-mail call-ups.

- Call up notifications will be placed on the electronic application file and will be publicly visible on the Councils Website.

- When a call up is received outside the call up period, the member will be notified that the call up is invalid.

- All applications validly called up will not be determined by the Assistant Director Place Making and Planning / Deputy Chief Executive, unless subsequently agreed otherwise, with the call up members or appropriate committee.

- Called up applications will be reported to the first available area committee in accordance with the reporting procedures set out in the Council’s Code of Conduct on Planning Matters.

- Called up applications will be decided by the area committee or the Planning and Highways Regulation Committee.

NOTE:

(1) Call ups should be kept to a minimum, as they increase costs and processing times.

(2) Once an application has been determined it cannot be reconsidered.

(3) Fully delegated applications cannot be called up to an area committee.

NOTICE OF REQUEST FOR CALL UP OF PLANNING APPLICATIONS

The following applications are required to be submitted to the appropriate area committee for determination and shall not be decided under delegated powers by the Assistant Director Place Making and Planning.

Application reference	Site Address	Ward	Planning Reason for call up

Councillor name 1:

Councillor name 2:

Date:

In order for the call up request to be valid, the information required on this form must be received by the Assistant Director Place Making and Planning, or appropriate Planning Officer, within 14 days of the date when the application appeared on the weekly list of applications received, via email to planning.dc@stockport.gov.uk and emma.curle@stockport.gov.uk