

Braishfield Parish Council

Planning Committee

Terms of Reference – adopted 5/12/2017

1. The Committee has authority delegated from the full Council to undertake the following:
 - a) Decide the comment of the Council on planning applications for which the Council has been notified under the Town and Country Planning Act 1990 Schedule 1, paragraph 8; and all other applications under the Town and Country Planning Act 1990, or the Planning (Listed Buildings and Conservation Areas) Act 1990, for addresses within the parish boundary.
 - b) Decide the comment of the Council on applications under the Town and Country Planning Act 1990 outside the parish, where the Chairman of the Committee deems that the proposed development will directly affect the parish; or where the planning authority has notified the Council of the application.
 - c) To notify the planning authority of suspected breaches of planning legislation within the parish.
 - d) Where an application is to be determined by a committee of the planning authority, to nominate a Member to represent the view of the Council at the relevant committee meeting of the planning authority.
 - e) To lead the production of supplementary planning documents, and to approve them. This may include consulting the community and setting up Working Parties, which may have non-councillor members, to assist in the whole process.
 - f) To comment on draft Local Plans and other consultations from the planning authority or from national government, when consulted by the planning authority or when the Chairman of the Committee deems the consultation to be on a matter of direct relevance to the parish.
2. The Standing Orders for the Council govern the Committee and its meetings (references in the Standing Orders to "the Chairman" being construed as references to the Chairman of the Committee). The Committee will be a Standing Committee.
3. In accordance with section 4 of the Standing Orders, the following apply:

- i. Terms of Reference

The Terms of Reference for the Committee shall be agreed by the full Council upon the formation of the Committee; and at every Annual Meeting of the full Council. The Committee may request a review of the Terms of Reference at any time, and propose draft Terms of Reference for the full Council's consideration and approval.

- ii. Number and time of Meetings

All meetings will be extraordinary meetings, called when a relevant matter arises. When deadlines allow, they will be held on the first Tuesday of each month except August.

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iii. Extraordinary Meetings

Extraordinary Meetings may be held if necessary in order to allow the Committee to make a timely comment on planning applications, in accordance with Standing Orders governing the convening of Extraordinary Meetings.

iv. Members of the Committee

All members of the Council shall also be members of the Committee, and shall have voting rights in accordance with the Standing Orders of the Council. Additionally, the Council may appoint non-councillor members on to the Committee, in accordance with Standing Orders. Non-councillor members of the Committee shall not have voting rights, and shall observe the requirements of the Parish Council's Code of Conduct in relation to their activities as such a member.

v. Substitute Members

In the event of members being unable to attend meetings of the Committee, the Committee does not have the power appoint substitute members

vi. Chairman and vice-chairman

After deciding to form the Committee, the Council shall appoint the chairman and vice-chairman of the Committee; and shall, at each Annual Meeting of the Council, decide the chairman and vice-chairman of the Committee.

Vii. [not applicable, as this is a standing committee]

viii. Place, notice requirements and quorum

Meetings of the Committee shall, when possible, be held in Braishfield Village Hall. Notice of meetings shall be in accordance with Standing Orders. Quorum for meetings shall be as for the full Council (a minimum of three voting members of the Council).

ix. Public

Public and press shall be admitted to meetings of the Committee and may participate in the meeting on the same terms as for meetings of the full Council (refer to Standing Orders of the Council).

x. [not applicable];

xi. [not applicable]

xii. The Council has the power to decide to dissolve the Committee.

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4. In addition to Standing Order 15 b xv ([the proper officer shall] “refer a planning application received by the council to the Chairman or in his absence the Vice-Chairman of the Council within two working days of receipt to facilitate an extraordinary meeting if the nature of a planning application requires consideration before the next ordinary meeting of the council;), the proper officer shall also refer such planning applications to the Chairman of the Committee within two working days of receipt to facilitate an extraordinary meeting if the nature of a planning application requires consideration before the next ordinary meeting of the Committee.
5. The Clerk shall attend the meetings and shall record, keep and publish minutes for the Committee in the same way as for the full Council.
6. The process of considering applications will be handled as follows:
 - a) Where appropriate, every effort should be made to visit the Application/development site with a view to better understanding the proposals.
 - b) The “**Model Planning Code for Parish and Town Councils in Considering Resolutions to Planning Authorities**” (Hampshire Association of Local Councils) shall be observed.



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Model Planning Code for Parish and Town Councils in Considering Resolutions to Planning Authorities

Introduction

The aim of this code is to help parish councillors to;

- a. Comply with the Code of Conduct
- b. Be lawful in responding to planning applications in their role in responding to planning applications, and supporting the planning authority with local knowledge.

When forwarding a response councillors are making a corporate decision.

- Councillors should be impartial and balanced.
- You should consider if you have an interest?
- All decisions should be 'reasonable'.
- You can be predisposed but not predetermined.
- You must consider all material considerations.
- You must abide by your own council's code of conduct.

1. Code of Conduct Advice:

- If you have any doubts about the application of your council's code of conduct to your own circumstances you should seek early advice from the Clerk, and preferably well before any meeting takes place.
- Leave the room if Standing Orders say you must.
- If you [are able to] stay as a member of the public, do not try to influence the decision improperly.

2. Relationship of this document to the Code of Conduct:

- Do apply the rules in your code of conduct first, which must always be complied with. These include both the rules on Interests and Disclosable Pecuniary Interests (DPIs), and any other interests identified by your council,



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and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

- Do then apply the guidance in this code, which seeks to explain and supplement the code of conduct and the law on decision-making for the purposes of planning control.

3. Development Proposals and Personal Interests

- Do disclose the existence and nature of your interest as required by your council's code of conduct.
- Do take into account when approaching a decision that the Principle of Integrity is defined in terms that "Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships".

It is therefore advisable that you:

- Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or councillors when other members of the public would not have the same opportunity to do so.
- However, you are not prevented from seeking further information in an application in which you may have a conflict of interest, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- Do notify the chairman and clerk where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
 - You must not get involved in the consideration of the application.



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4. **Fettering Discretion in the Planning Process** (natural justice, predisposition and predetermination):

- Don't fetter your discretion by approaching the decision with a closed mind.
- Do be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- Do keep at the front of your mind that, when you come to make the decision, you are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
- must keep an open mind and hear all of the evidence before you, including the arguments from all sides and any advice from the clerk;
- Is not required to cast aside views on planning policy you held when seeking election or since acting as a councillor, in giving fair consideration to points raised;
- Is only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
- Is to come to a decision after giving what you feel is the right weight to those material considerations.
- Do be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal.

So, how should members ensure they are not judged to be predetermined?

Simply do not participate if:

- you have a personal interest that is a Disclosable Pecuniary Interest (DPI).
- you have a personal interest that is not a DPI but would contravene your council's code of conduct.
- people would think there was a real possibility you would be biased
- you have a 'closed mind' on this matter.
- you cannot avoid being influenced by something that is not relevant.



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But you can still participate if:

you are either [or both] a district/borough and county councillor, provided:

- the proposal does not substantially affect the well-being or financial standing of the parish or town council;

you make it clear that:

- your views are expressed on the limited information before you only;
- you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that ward or parish, as and when.

5. **Contact with Applicants, Developers and Objectors**

- Do refer those who approach you for planning, procedural or technical advice to the clerk.
- Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it.
- Don't attend a planning presentation without the Clerk present.
- Do be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other councillors would intend to vote at a meeting.

6. **Lobbying of Councillors**

- Do explain to those lobbying you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the council's decision making, to make any sort of promise to vote one way or another, or give such a firm point of view that it amounts to the same thing.
- Do remember that your overriding duty is to the whole community not just to the people in your ward [if applicable] and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.



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- Don't accept gifts or hospitality from any person involved in or affected by a planning proposal.
- Do copy or pass on any lobbying correspondence you receive to the Clerk.

7. Lobbying by Councillors

- Don't become a member of, lead or represent an organisation whose primary purpose is to lobby, promote or oppose planning proposals unless it is your intention to openly campaign on the matter and step away from the Executive when it comes to make its decision.
- Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning response is to be made.

8. Site Visits

- You must not trespass.
- You should not lobby or seek to influence neighbours with your views.
- The purpose of the site visit is to enable you to understand/visualise the proposal you are considering, and no more.

9. Decision Making

- Do come to meetings with an open mind and demonstrate that you are open-minded.
- Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision.
- Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate.
- Do make sure that if you are proposing, seconding or supporting a decision contrary to the development plan that you clearly identify and understand



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the planning reasons leading to this conclusion. These reasons must be given prior to the vote and be recorded.

10. Training

- Don't participate in decision making at meetings dealing with planning matters if you have not attended planning training as offered by your principal authority and the Hampshire ALC.
- Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, and procedures.