

STANDARDS COMMITTEE AGENDA



Tuesday 17 February 2009

at 4.00 p.m.

**in Committee Room B,
Civic Centre, Hartlepool.**

MEMBERS: STANDARDS COMMITTEE:

Councillors Coward, Lauderdale, Preece, Shaw, Sutheran, Wallace and Wright.

Co-opted Members: Barry Gray, and two vacancies.

Parish Councillors: A Bell and R Gilbert.

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **TO CONFIRM THE MINUTES OF THE MEETING HELD ON 16 DECEMBER 2008**
4. **STANDARDS COMMITTEE ANNUAL REPORT– *Chief Solicitor***
5. **PLANNING CODE OF PRACTICE– *Chief Solicitor (to follow)***

STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

16th December 2008

The meeting commenced at 4.00 pm. in the Civic Centre, Hartlepool

Present:

Mr B Gray (In the Chair)

Councillors Coward, Preece and Wright

Parish Councillor R Gilbert

Officers: Peter Devlin, Chief Solicitor
Amanda Whitaker, Democratic Services Team Manager

26. Apologies for Absence

Councillors Shaw and Sutheran and Parish Councillor Bell

27. Declarations of interest by members

None

28. Minutes of the meeting held on 11th November 2008

Confirmed

29. Appointment of Independent Member to Standards Committee *(Chief Solicitor)*

The Chief Solicitor reported that following the advertisement earlier in the year for applications to become independent Members of the Standards Board and the Independent Remuneration Panel, Mr Ted Jackson had submitted an application to be considered for the position of independent Member of the Standards Committee. At the meeting, Mr Jackson advised that he was agreeable that his application be put forward also for Independent Member of the Independent Remuneration Panel.

A formal interview process was necessary and Mr Jackson had been invited to attend this meeting. The interview was conducted in respect of Mr Jackson's interest in the vacancy on the Standards Committee and the Independent Remuneration Panel.

Copies of Mr Jackson's application were circulated at the meeting, together with a list of questions as part of the interview process. The Chair put the questions to Mr Jackson on the Committee's behalf. Following the interview, Mr Jackson withdrew from the meeting to allow the Committee to consider its recommendation.

Members agreed that Mr Jackson was an 'ideal candidate' for the positions of independent Member of the Standards Committee and the Independent Remuneration Panel.

Decision

That a report be submitted to the next meeting of the Council indicating that it is this Committee's strong recommendation that Mr Jackson be appointed as an independent member to both this Committee and the Independent Remuneration Panel.

30. The Case Review: 2008

The Chief Solicitor reported that the Standards Board for England had issued their annual review of cases which reflected upon a "paragraph by paragraph analysis" of the Members Code of Conduct. The cases also covered the revisions to the Code following on from the provisions of the Local Government and Public Involvement in Health Act, 2007, which introduced the local assessment process. A copy of the 2008 Digest was appended to the report for general information.

Decision

That the report be noted.

31. Training Exercise for Assessing New Complaints

The Chief Solicitor reminded Members that the Standards Board for England had developed a training exercise in order to assist Member development in their ability to assess the new complaints procedures. Each case included a set of papers submitted by a complainant and a summary of each complaint to help the Standards Committee in arriving at its determination of the appropriate decision in each particular case. Members at their meeting on 24th June, 2008, did consider cases A and B in the appended Schedule of Cases and the report invited consideration of the remaining cases. In view of the considerable training available to Members of the Committee over coming months, it was agreed that it was not appropriate to consider the remaining cases.

Decision

That consideration of the remaining cases be deferred.

32. **Any Other Business**

Standards Board for England – Bulletin 41 – The Chief Solicitor tabled for the Committee's Information Bulletin 41 which had been produced by the Standards Board for England.

The meeting concluded at 4.45 pm

CHAIRMAN

HARTLEPOOL BOROUGH COUNCIL
STANDARDS COMMITTEE

Annual Report 2008

INTRODUCTION

This report of the Standards Committee of Hartlepool Borough Council covers the period 1st January - 31st December, 2008. It sets out the roles and remit of the Committee, its composition, together with a review of its activities over the period in question. Mention is also made of the ongoing training and development programme of the membership of the Committee.

From 8 May 2008 the responsibility for considering complaints that a member may have breached the Code of Conduct was entrusted to the local Standards Committees. In accordance with The Standards Committee (England) Regulations, 2008, the Standards Committee has publicised information, which directs individuals as to where a complaint can be directed with additional information as to process of dealing with such complaints. The Council has adopted a formal "Complaint Form" augmented with additional guidance to assist individuals in proceeding with a complaint.

Members of the Council have undertaken to comply with the Code of Conduct and have completed entries on their Register of Interests and that relating to the registration of "Gifts and Hospitality". In addition, Members are reminded on a "six monthly" basis through correspondence from the Monitoring Officer as to their obligations in this regard.

THE REMIT OF THE COMMITTEE

The remit of the Standards Committee under Article 15 of the Council's Constitution is as follows:-

"The Standards Committee will have the following roles and functions:

- i) promoting and maintaining high standards of conduct by the Mayor, Councillors, co-opted members and church and parent governor representatives;*
- ii) assisting the Mayor, Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;*
- iii) advising the Council on the adoption or revision of the Members' Code of Conduct;*
- iv) monitoring the operation of the Members' Code of Conduct;*
- v) advising, training or arranging to train the Mayor, Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;*
- vi) granting dispensations to the Mayor, Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;*

- vii) *dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer; and*
- viii) *the exercise of (i) to (vii) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.”*

NOTE:-**Independent members**

Independent members of the Committee will serve for four years. At the end of each term the selection process will be determined by that Committee in accordance with regulations, however Council must approve the nominations of the Committee.

Parish members

The parish members will be nominated annually by the Parish Councils on a rota basis.

NOTE:-

Following the introduction of the Local Assessment of Complaints the Standards Committee has formed two Sub-Committees to deal with the initial assessment of a complaint and a Sub-Committee to review initial assessment decisions, where required.

COMPOSITION OF THE COMMITTEE

The Standards Committee for 2008 comprised as follows;

3 Independent Members

Mr J B Gray - Chairman

Mr K Fisher – Vice-Chairman (* position vacated May, 2008)

Vacancy.

7 Council Members

Councillors R W Cook, S Griffin, P Laffey, A Preece, J Shaw, M Turner, S Wallace (** until the Annual Meeting of Council in May, 2008)

Councillors J Coward, J Lauderdale, A Preece, J Shaw, L Sutheran, S Wallace, E Wright.

(*** appointed following the Annual Meeting of Council in May, 2008)

2 Parish Council Members

Mr R Gilbert (Elwick Parish Council)

Mr A Bell (Hart Parish Council)

Note: Mr Bell was appointed, following the requirements in the 2008 Regulations to have two Parish Council representatives on the Standards Committee.

The quorum for the meetings of the Standards Committee is prescribed as four (three Councillors and 1 Independent Member). Meetings of the Committee and the Sub Committees (see below) are chaired by an Independent Member. The Assessment Sub-Committee and the Assessment Review Sub-Committee have a quorum of three and will comprise one Independent person and two Members (where Parish Council matters are discussed then the Sub Committee must include a Parish representative). The Sub Committees meet with reference to any complaints that have been received. The Committee and Sub-Committees Lead Officers are the Council's Monitoring Officer, Peter Devlin, who also acts in the capacity as Chief Solicitor to the Council with the appointment of Alyson Caman in the role of Deputy Monitoring Officer pursuant to Section 5(7) of the Local Government and Housing Act, 1989

COMPLAINTS

In the period covered by this Annual Report three complaints were received by the Council under the local assessment process, relating to a Member of the Authority. Following an investigation, there was a finding of "no failure" by the Standards Committee, which entails that the Subject Member had not breached the Council's Code of Conduct. Prior to local assessment, one complaint was dealt with by the Standards Board for England, wherein the Ethical Standards Officer appointed to conduct an investigation, made a finding of a "failure" to comply with the Members Code of Conduct, but that "no further action" was warranted.

There were no applications for any dispensations in relation to Members of the Council over the period in question.

2008 REVIEW

Although the Standards Committee does not operate a work programme the following items were considered by the Committee for the period in question;

(a) Standards Board for England Training DVD and training exercise processing new complaints.

The Standards Board for England have developed various training exercises in order to assist Member development in their ability to assess and deal with the new complaints procedures. The Committee undertook a number of exercises as developed through the findings of local assessment pilot authorities which consisted of information submitted by an anonymised complainant with a summary of each complaint to assist the Standards Committee in arriving at its

determination of the appropriate decision in each particular case. These case studies also allowed the Standards Committee practice in operating the review mechanism wherein an agreed individual could ask for a review of their initial complaint were the Assessment Sub-Committee had decided not to proceed with an investigation of that complaint.

(b) Ethical Governance Standards Committee Training – 17th September, 2008.

Members of the Standards Committee engaged in training organised in conjunction with other Tees Valley Standards Committees as facilitated through the Improvement and Development Agency (I&DeA). In addition, this training event was supported by a representative from the Standards Board for England and an I&DeA Monitoring Officer peer from Newark and Sherwood District Council. The training consisted of group presentations upon the ethical framework provisions together with the implications of the new statutory guidance and Regulations and the revised roles and responsibilities of local Standards Committees in dealing with local assessment of complaints. Further, small group exercises were also accommodated within the training programme to consider local assessment case studies and scenarios and consideration of the impact that poor ethical behaviour has on relationships and the wider authority. Also, how barriers to good ethical behaviour could be overcome to ensure good governance behaviour exists within an authority. Overall, the aims of the ethical governance training was designed to explore the following;

- The ethical framework in context, including the updated Code of Conduct
- What is meant by ethical behaviour
- How do relationships impact on the ethical culture of the Authority
- What happens when things go wrong and how to overcome problems
- Participants to consider the above issues in the context of ethical behaviour scenarios/case studies about initial local assessment subject to reviews of allegations of misconduct
- How can it be encouraged for authorities to work within an agreed ethical context
- Action planning within the Tees Valley area

From that training, the following development programme has been established for the period 2008/09;

Event	Lead Authority	Date
Town/Parish Council Training Event – Local Assessment; revised Code of Conduct	Hartlepool/Stockton	February/March 2009
Standards Committee Workshop – Local Assessment criteria; sanctions; joint working; Regulations	Middlesbrough	April/May 2009

Standards Committees Independent Members Forum (Networking Event)	Darlington/Redcar and Cleveland (TBC)	June/July 2009
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(c) Department of Communities and Local Government Consultation Paper – Code of Conduct for Local Authority Members and Employees

On 16th December, 2008, the Committee met to consider the Consultation Paper published through the Department of Communities and Local Government and entitled “Communities in Control: Real People, Real Power: Code of Conduct for Local Authority Members and Employees – A Consultation”. This documentation was one of a series of consultation exercises issued under the banner of “Communities in Control” and which followed the publication of the Local Government White Paper, “Communities in Control: Real Power, Real Power” on 9th July, 2008 and also building upon the themes in the 2006 White Paper: “Strong Prosperous Communities”. The consultation document invited proposals for revising the Local Authorities (Model Code of Conduct) Order, 2007 and The Relevant Authorities (General Principles) Order, 2001. Of note, Hartlepool Borough Council had revised its Code of Conduct in 2007 which also included within the preamble to the Code of Conduct the 10 general principles governing the conduct of Members of public authorities as set out within the 2001 Order. For the avoidance of doubt, these ‘general principles’, are as follows;

- Selflessness
- Honesty and integrity
- Objectivity
- Accountability
- Openness
- Personal judgement
- Respect for others
- Duty to uphold the law
- Stewardship
- Leadership

The Committee provide a response in conjunction with this consultation which can be found on the Authority’s website at www.hartlepool.gov.uk.

(d) Standards Committee Guidance

At their meeting on 16th December, 2008 the Committee received documentation covering guidance as issued through the Standards Board for England which covered the following topics;

1. Local assessment of complaints
2. Toolkit
3. Local investigations and other actions
4. Standards Committee determinations

In addition to this guidance, Members of the Standards Committee also incorporated within that documentation, 'assessment criteria' which had been developed and adopted by the Committee in relation to the local assessment and determination of complaints. Further, two protocols which had been developed by the Tees Valley Authorities were also duly approved and incorporated within the information available to the Members of the Standards Committee. These protocols which had been subsequently revised in the light of the Local Government and Public Involvement in Health Act, 2007 and applicable Regulations provide for reciprocal arrangements amongst authorities in the provision of legal advice to Members and the role of the Monitoring Officer. For the avoidance of doubt, these protocols are as follows;

Protocol – “Ethical Framework: Members Code of Conduct – Alleged Breaches” – Legal Advice

Protocol – “Ethical Framework: Members Code of Conduct – Alleged Breaches” – Monitoring Officer

Members were also provided with the 'Guidance on Reference from the Standards Committee' as issued through the President of the Adjudication Panel for England. This guidance covered the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee under Regulation 17 of the Standards Committee (England) Regulations, 2008. Members will augment the information contained within the documentation supplied as and when the same becomes available and also having regard to the relevance of such documentation. Of note, Members of the Committee receive the Standards Board for England Bulletin as and when issued together with such statistical and other information emanating from that source. Members as a matter of course are also made aware of the Standards Board for England Annual Review documentation as well as applicable “road show” information and the Annual Conference organised through the Standards Board for England.

CONCLUSION

Members have equipped themselves through engaging in training and also through the Member Development Programme as organised by the Council in meeting the challenges of the local assessment and determination process. Members also recognise their pivotal role in ensuring that proper ethical governance arrangements are in place within the Council and in relation to Parish Councils within the Borough of Hartlepool and the vital role that Members have (both as Members and co-opted Members) when establishing and maintaining this ethical framework. Accordingly, Members will continue to engage in the business of the Committee as aligned to the role and remit of the Standards Committee and the ability to advise upon the operation and maintenance of good governance within those Councils.

STANDARDS COMMITTEE

17th February 2009



Report of: Chief Solicitor

Subject: PLANNING CODE OF PRACTICE

1. PURPOSE OF REPORT

The purpose of this report is to seek the views of the Standards Committee to the adoption by the Council of a Planning Code of Practice. A draft of such a Code, which would operate as a “local” Code, if adopted, is appended herewith (**Appendix 1**) for information purposes. Earlier reports, circa 2005/6 were distributed to both the Standards Committee and the Planning Committee, for consideration. Owing to impending legislative changes relating to the involvement of Members with declarable interests, in relation to the discussion (as opposed to the actual decision making process) of regulatory business of the authority, progress upon the adoption of such a Code has been limited. Owing to the passage of time, it is therefore prudent for Standards Committee to again consider the attached revised Code, before comments are relayed to the Planning Committee and ultimately to Council to consider formal adoption of this document. It should be noted that draft versions of the attached Code has been used for the purposes of on – going Member training in planning.

2. BACKGROUND

- 2.1 Following the recommendations of the Nolan Committee on Standards in Public Life, the Local Government Act 2000 established an ethical framework for local government in which each authority's Standards Committee has a pivotal role. Nolan recognised as a significant area of concern probity in the discharge of local authorities' planning functions and, flowing from that, an expected element of an authority's armoury against improper practice is a local Planning Code of Practice.
- 2.2 The attached draft Planning Code of Practice draws upon guidance issued by, amongst others, the Local Government Association, Royal Town Planning Institute and the Audit Commission. The draft code also builds upon the ethical framework established under the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007 and also general compliance with the provisions of the Human Rights Act 1998.

2.3 The earlier submission of the draft Code to the Standards Committee and its consideration by Planning Committee follows the ‘constitutional’ route to ultimate approval by Council, which is anticipated to follow the path set out below –

- Standards Committee
- Planning Committee
- Constitutional Working Group/Committee
- Standards Committee (to deal with any significant changes resulting from the consideration of this document by Planning/Constitutional Committee)
- Council

3. THE DRAFT PLANNING CODE OF PRACTICE

3.1 The main purpose of the code is summarised as follows:-

- Protecting the Council from criticism about the conduct of Members in the planning process.
- Providing a framework to deal with potential problems.
- Assisting in making decisions in the public interest.
- Illustrates the openness and transparency of the decision making process.
- The Planning Code of Practice seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control.

3.2 A failure to abide by the provisions contained within the Planning Code of Practice may lead to:

- The Council being at risk of proceeding on the legality or maladministration of the related decision; and
- Placing a Member(s) at risk of either being named and a report made to the Standards Committee or Full Council, or if the failure is likely to be a breach of the Code of Conduct, a complaint being made to the Standards Committee through the local assessment of complaints process.

3.3 The Government’s White Paper: ‘Strong and Prosperous Communities’ (October 2006) indicated that changes to the Members’ Code would include amending the rules on personal and prejudicial interests to remove the barriers to Councillors speaking up for their constituents or for the public bodies on which they have been appointed to serve. These changes have now been incorporated through legislative provision, in revisions to the Code of Conduct and the ethical framework operating within local government. Consequently, where members of the public can make ‘representations, give evidence or answer questions’ on a matter, by statutory right or otherwise, a Member who has a prejudicial interest can also attend the meeting for that purpose.

However, revisions to the Code of Conduct were not anticipated until May 2007, it was therefore deemed appropriate for Members to consider the adoption of a Planning Code of Practice, with subsequent changes, as and when the same became necessary.

- 3.4 The draft Code incorporates these changes and up-dates the information contained within previous versions of this document. Members are therefore requested to consider the appended document and to make such recommendations for adoption by the Council as it considers appropriate.

4. RECOMMENDATION

- 4.1 Members are invited to consider and comment on the draft Planning Code of Practice and subject to any amendments arising from consideration by the bodies referred to in para 2.3, to commend its adoption by Council.

HARTLEPOOL BOROUGH COUNCIL

PLANNING CODE OF PRACTICE

**Hartlepool Borough Council
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Draft Version – 02/09

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28,/29-/32

The main points of advice about the conduct expected of Members and Officers are emphasised in bold italics, like this sentence.

1. INTRODUCTION

1.1 The Local Government Act 2000 introduced a new ethical framework to local government, including a Model Code of Conduct for Councillors. Previously the Nolan Committee Report on Standards in Public Life (1997) issued advice to Local Planning Authorities to frame Local Codes of Conduct or Good Practice to cover the question of Probity in Planning. ~~The Code~~ This Planning Code of Practice ("the code") complements and expands on the Model Code of conduct and is an annex to it. The Model Code is essentially concerned with the conduct of the individual councillor's duties, while the Planning Code is concerned with the integrity of the Planning System and its procedures. The Code of Practice is based on guidance from, eg The Nolan Committee, the Local Government Association, the Royal Town Planning Institute, the Standards Board for England, the Audit Commission and others. The Code sets out practices and procedures designed to avoid allegations of malpractice in the operation of the planning system. The aim is to protect the integrity of the planning system as open and fair to all parties.

1.2 The Code will be enforced by the Council's Standards Committee. The Code will be a consideration in any investigation of maladministration by the Local Government Ombudsman. The Code refers mainly to the actions of a Planning Committee as the main decision making body, but it applies especially to other forms of decision making, eg Council where planning issues may be discussed. The Code applies to both Councillors and Officers.

1.3 In terms of Article 6 of the Human Rights Act 1998, (right to a fair trial), the Code, together with the availability of an appeal procedure will meet the requirements of the Article. Ensuring that decisions are properly recorded and supported by adequate reasons. The fundamental basis of the Code is that the Planning System operates in the public interest and therefore decisions affecting private and public interests have to be made openly, impartially, with sound judgement and for justifiable reasons.

1.4 In addition, the role of elected Councillors on a Planning Committee in assessing material planning considerations (see section 5) involves balancing/representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision making on what can be highly controversial proposals which give rise to great tensions.

2. THE NEED FOR A CODE

2.1 Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (ie it actively invites public opinion before taking decisions) and the legal status of development plans, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision making.

2.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should be able to show that decisions have been taken in an impartial, unbiased and well-founded way.

3. SCOPE OF THE CODE

3.1 This guidance note sets out the practices which Hartlepool Borough Council follows to ensure that its planning system is fair and impartial, and explains the conduct expected of Borough Council Officers and Members on planning matters.

3.2 It applies to both Councillors and Officers who are involved in operating the

planning system - it is not, therefore restricted to professional town planners or to Members in Committee meetings. The successful operation of the planning system relies on mutual trust and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

3.3 Both councillors and officers are guided by codes of conduct. The statutory code of conduct, supplemented by guidance from the Standards Board, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. However, not all Planning Officers are members of the RTPI, and parts of the Code of Professional Conduct are incorporated into this Code. The ~~District~~ Borough Council also has a Code of Conduct for Employees, by which all employees are required to abide. In addition to these Codes, the Council's Rules of Procedure govern the conduct of Council business.

3.4 Whilst this Code, and the others referred to above, attempt to be as clear as possible, *if in doubt about how the guidance applies in particular circumstances seek advice*. Officers should seek advice from the Chief Solicitor, who also acts as the Council's Monitoring Officer under the Local Government and Housing Act 1989. Members can seek advice from the Development Control Manager or from the Principal Solicitor as appropriate.

3.5 Appendix 1 also contains a list of other guidance on planning which is available from the Council.

3.6 This guidance is mainly about planning applications, but also applies to the ways in which the Council handles all applications, planning enforcement matters and also how the Council prepares a ~~Local Plan and the successor~~ its Local Development Frameworks. References to applicants and objectors should therefore generally also be taken to refer to complainants and alleged contravenors in enforcement cases, and to landowners,

developers and objectors involved in plan proposals. The guidance applies to planning matters on which a decision will be taken by the Borough Council.

4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

4.1 Councillors and Officers have different, but complementary, roles. Both serve the public. Councillors are responsible to the electorate, and are elected to represent all people of the Borough. Officers are responsible to the Council as a whole. They advise the Council and its committees, and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may be given to Officers only through a Council or Committee decision. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust, respect and an understanding of each others roles and positions. This relationship, and the trust which underpins it, must never be abused or compromised.

4.2 Therefore:

- *Individual Councillors should not give instructions to Officers on planning matters.*
- *Officers' actions will follow Council policy and Committee/Board decisions.*
- *Political group meetings should not be used to decide how Members should vote on applications and enforcement cases and Councillors are not mandated on these matters by a political group.*

4.3 The Model Code sets out the requirements on 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 who become involved in making a planning decision is the requirement that a member

“must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.” (Paragraph 6(a) Model Code of Conduct).

4.4 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 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.**

4.5 Officers must always act impartially. The RTPI Code of Conduct says planners:

- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
- shall act with competence, honesty and integrity;
- shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- shall discharge their duty to their employers, clients, colleagues and others with due care and diligence; and
- shall not discriminate on grounds of race, sex, sexual orientation, creed, religion, disability or age, and shall seek to eliminate such discrimination by others and to promote equality of opportunity.

These guidelines should apply to all Planning Officers. More detailed guidance and requirements are in the Council's own Code of Conduct for Employees. Through the Local Government and Housing Act 1989, restrictions are placed on the outside activities

of senior staff, such as membership of political parties and serving on another Council.

4.6 Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the Model Code. Members are placed under a requirement by the Model Code to:

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

4.7 The principles from the Relevant Authorities (General Principles) Order 2001 should guide the conduct of all Councillors. These principles are as follows:

- Selflessness
- Honesty and Integrity
- Objectivity
- Accountability
- Openness
- Personal Judgement
- Respect for Others
- Duty to Uphold the Law
- Stewardship
- Leadership

The actions and conduct of Councillors and Officers should be such as would seem appropriate and above suspicion to an impartial outside observer. Decisions should be taken in the interests of the Borough as a whole, and should not be improperly influenced by any person, company, group or Parish/Town Council. The key is to demonstrate that each Council and Councillor's decision was taken on the facts alone, without any undue outside pressure.

5. WHAT PLANNING DECISIONS ARE BASED ON

5.1 Planning decisions are based on planning considerations and cannot be based on immaterial considerations. The Town and Country Planning Act 1990, as amended, together with Government guidance and cases decided by the courts, define what matters are material to planning decisions.

5.2 *It is the responsibility of Officers in preparing reports and recommendations to Members, and in advising Committees, to identify the material planning considerations and to ensure Members are aware of those matters which are not material to planning decisions.*

5.3 Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration.

Under Section 38 of the Planning & Compulsory Purchase Act 2004 if regard is had to the development plans the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The development plan consists of:

- The North East of England Plan, Regional Spatial Strategy (Issued 2008)
- The Hartlepool Local Plan (Including Minerals & Waste Policies) April 2006.

After April 2009 a limited number of Hartlepool Local Plan Policies not specifically saved by the Direction of the Secretary of State will cease to have statutory weight.

The Hartlepool Local Plan will in due course be superseded by the Hartlepool Local Development Framework.

5.4 Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs), Planning Policy Statements (PPSs), Regional Planning Guidance, Regional Spatial Strategies (RSS), Circulars and Ministerial announcements;
- planning briefs and other 'supplementary planning guidance' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making

comments, to the extent that they relate to planning matters;

- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

5.5 There is much case law on what are, and are not material planning matters. ***Planning matters must relate to the use and development of land.*** For example, the following are ***not*** normally planning matters and ***cannot be taken into account in planning decisions:***

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on

- the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
 - the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
 - the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
 - allegations that a proposal might affect private rights, e.g. restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
 - arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. DUTIES AND SANCTIONS

The Council's Planning Committee exercises the Borough Council's statutory Local Planning Authority functions and ~~are~~ is the decision makers for the purpose of determining applications other than those matters falling within the Council's Scheme of delegation (see Appendix 4). Decision makers have a very special responsibility and have a number of statutory duties. There are also sanctions against the Council and Members for

a failure to properly discharge the Local Planning Authority function. These duties and sanctions are summarised in Appendix 2.

7. THE DECISION MAKING PROCESS

In reaching a decision on a planning application, Members need to:-

- (i) identify the development plan policies which are relevant to the particular development proposal;
- (ii) identify any other material considerations;
- (iii) if there are other material considerations, the development plan should be taken as a starting point and the other material considerations should be weighed in reaching a decision. Considerable weight should be attached to the relevant policies of an adopted development plan. Exceptionally, paragraph 21 of The Planning System: General Principles, a document published alongside Planning Policy Statement 1: Delivering Sustainable Development, advises that the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the welfare of a local community may be material. Such arguments will seldom outweigh the more general planning considerations. That means such considerations generally have less weight.

At a fundamental level, Members should go through the following three stage process when making a decision:-

Stage 1

- (i) Identify the relevant development plan policies and other relevant material considerations (if any) in respect of the application which need to be taken into account in the decision making process.

- (ii) Identify irrelevant matters which should not be taken into account in the decision making process. These include the applicant's personal qualities such as having a long term family connection with the area, his or her popularity in the community, the fact he/she is a local farmer, the fact that a son or daughter is just about to marry.

guidance on the weight to be attached to relevant considerations.

- *Members should determine applications in accordance with the advice given to them by their professional officers unless they have good planning reasons, in the knowledge of all material considerations, to take a decision contrary to the officer's recommendation.*

Stage 2

Attach sufficient weight to the development plan policies and other material consideration for and against refusal or approval.

Paragraph 21 of The Planning System: General Principles, indicates that less weight is generally attached to personal circumstance. When they arise they fall to be considered not as a general rule, but as an exception to a general rule to be met in special cases.

Paragraph 13 of The Planning System: General Principles, indicates that Members must have proper regard to Government Statements of Planning Policy which indicates the weight to be given to relevant considerations. If Members elect not to follow relevant statements of the Government's Planning Policy, they must give clear and convincing reasons.

Stage 3

Weigh the material considerations in reaching a decision.

A failure to follow the proper decision making procedure can give rise to a proceedings for a Judicial Review or a finding of maladministration by the Local Government Ombudsman.

- *In the decision making process, Members should not take into account irrelevant matters, allow them to outweigh important planning considerations and fail to take fully into account Government*

8. LOBBYING OF AND BY COUNCILLORS

8.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or to a Member of the Planning Committee. As the Nolan Committee's Third Report states: 'local democracy depends on Councillors being available to people who want to speak to them. It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representative, the Councillors themselves' (paragraphs 285, 288). However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

8.2 Councillors need to take account of the general public's (and the Ombudsman's) expectation that a planning application and other applications will be processed and determined in a transparently open and fair manner, in which Members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. The determination of a planning application, or of a planning enforcement case, is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and

fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsman on grounds of maladministration.; or to the Standards Committee that a member has breached the local code.

8.3 A Councillor who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding publicly to support a particular outcome - even campaign actively for it - it will be very difficult for that Member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented (perhaps in some respects for the first time) at Committee. Whilst in most circumstances this may not amount to a prejudicial interest in terms of the Model Code of Conduct, **the proper course of action for such a Member would be to make an open declaration and not to vote.** This can be seen, however, as a severe restriction on the Member's wish - duty even - to represent the views of the electorate. In most cases it should be possible for a Member to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.

8.4 It is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and what the National Code of Local Government Conduct calls the 'overriding duty as a Councillor ... to the whole local community'. However, the following guidance will be appropriate in most cases.

8.5 Councillors who are lobbied on a planning matter before the Planning Committee:

- *may listen to what is being said;*
- *may give procedural advice eg to write to the Director of Regeneration and Planning, the name of the Case Officer,*

the deadline for comments, whether the application is to be determined by the Planning Committee or delegated to officers, how decisions are reached through Officer recommendation /Planning Committee;

- *should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;*
- *should take great 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;*
- *should make it clear that Councillors will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee;*
- *should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to oppose or support the application;*
- *should not negotiate detailed planning matters with applicants, agents, objectors, etc;*
- *should pass relevant correspondence to the Case Officer prior to any Committee meeting;*
- *should report instances of significant, substantial or persistent lobbying to the Development Control Manager or the Director of Regeneration and Planning.*

8.6 Councillors who have openly declared their voting intention in advance of the relevant Committee meeting should make an open declaration and leave the meeting, taking no part in debate or voting.

8.7 To avoid impressions of improper influence which lobbying by Members can create:

- *Councillors should in general avoid organising support for or opposition to a planning matter to be determined by the Borough Council, and should not lobby other Councillors - such actions can easily be misunderstood by parties to the application and by the general public;*

- *Councillors should not put pressure on Officers for a particular recommendation;*
- *political group meetings should not be used to decide how Members should vote on planning matters;*
- *Councillors should not act as agents or advocates for planning applications or any other applications, enforcement cases or proposals to be determined by the Borough Council. Where a Councillor is involved in a particular planning matter, she/he should take care not to appear to try to influence other Members, and should declare an interest at the relevant Committee meeting.*
- *Whenever a Member is approached or lobbied on any particular application Members should consider distributing the draft letter attached as Appendix 3 which makes clear the neutral stance which Members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting.*
- *If Members attend private site meetings in their ward at the request of the applicant they should express no opinion on the merits of the application and should normally advise the applicant that the Member may also speak to other interested parties including objectors, again, without expressing any opinion on the merits of the application prior to determination before Planning Committee.*
- *Members should not normally undertake private site inspections in another Member's ward without prior notice to the Ward Member. Again Members should express no opinion on the merits of the application.*

9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS

9.1 The Council encourages pre-application discussions between Planning Officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving

clear information about applicable policies, etc before proposals are designed; and so they can improve the quality of applications and development. The Statement of Community Involvement provides further details on these matters.

9.2 However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

- *The Officer should always make it clear at the outset that the discussions will not bind a Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.*
- *Advice should be consistent and based upon the development plan and material considerations.*
- *Where the Director of Regeneration and Planning Services or the Assistant Director (Planning and Economic Development) is the decision-maker (for delegated matters - see later), he/she should normally not meet the applicant, agent or objectors to discuss a case without another Officer present.*
- *A written note should be made of all discussions with the applicant, agent or objectors. A follow-up letter is advisable, at least when documentary material has been left with the Council. A note should also be taken of telephone discussions.*
- *Whilst Councillors will not normally be involved in pre-application or pre-decision discussions, if a Councillor is present he/she should be accompanied by an Officer. The Councillor should be seen to be advised by the Planning Officer on development plan and other material considerations, and the Officer should take a note of the meeting.*

9.3 Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- *Officers should normally ask someone requesting advice to put the request in writing - so that it is clear on what proposal or circumstances advice is being given.*
- *Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.*
- *Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for a Local Planning Authority to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use of Development. Advice from an Officer cannot legally circumvent this procedure.*
- *Officers will be unable to say what their recommendation is on a particular planning matter until all issues have been considered and the papers published for the relevant Committee.*

10. REGISTRATION OF INTERESTS

The Local Government Act 2000 and the Model Code place requirements on members on the registration and declaration of their interests and the consequences for the member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Guidance on the registration and declaration of interests will be issued by the Standards Board and advice may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

A register of members' interests will be maintained by the Council's Monitoring Officer, which will be available for public

inspection. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of his 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.

11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE

11.1 The Model Code abandons the use in the old National Code of the terms 'pecuniary' and 'non-pecuniary' interests. Instead, it uses the terms '**personal**' and '**prejudicial**' interests. The code defines a personal interest in any matter under discussion as:

(1) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members' interests; and

(2) if a decision upon it might reasonably be regarded as affecting to a **greater extent than other council tax payers, ratepayers or inhabitants of the authority's area**, the well-being or financial position of themselves, a relative or a friend, or

- any employment or business carried on by such persons;
- any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.

11.2 Where a member considers he has such a personal interest in a matter, he must always declare it, but **it does not then necessarily follow that the personal interest debars the member from participation in the discussion.**

11.3 The member then needs to consider whether the personal interest is a **prejudicial** one. The code provides that a personal interest becomes a prejudicial one “...if the interest is one which a member of the public **with knowledge of the relevant facts** would **reasonably regard as so significant that it is likely to prejudice the member’s judgement of the public interest**”. A member with a prejudicial interest shall declare it and leave the room, **unless members of the public are allowed to make representations, give evidence or answer question about the matter** by statutory right or otherwise. If that is the case, the member can also attend the meeting for that purpose. However, the member must immediately leave the room once they have finished or when the meeting declares that the member has finished (if that is earlier). For the assistance of doubt, the member should not remain in the public gallery to observe the vote on the matter.

11.4 The code will include some exceptions to this. For example, if the matter under discussion relates to:

- another authority of which the Councillor is a member;
- another public authority in which the councillor has a position of general management or control;
- a body to which the councillor has been appointed or nominated as a representative of the authority.

Then, in these circumstances, the interest **may not be regarded as prejudicial**. In practice, therefore, the member would need to declare the interest, but could participate.

11.5 It can be seen that these provisions of the code are an attempt to separate out interests arising from the personal and private interests of the councillor and those arising from the councillor’s wider public life. The emphasis is on a consideration of the status of the interest in each case by the councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. Whilst the Standards Board is

mandated to provide guidance on the Code of Conduct, the decision in the end will be for the councillor alone to take.

11.6 Translated to a councillor’s involvement in planning issues, the two stage test of personal and prejudicial interests will, as now, require a councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the personal interests of the councillor, his family, friends or employer.

11.7 The exceptions made to the definition of prejudicial interests relating to membership of outside bodies mentioned above are attempts to clarify the nature of such interests and to encourage participation in such cases. It appears that too often in the past, members had been prevented from participation in discussions in such circumstances, on the basis that mere membership of another body constituted an interest that required such a prohibition, even in cases where the member was only on that body as a representative of the authority.

11.8 When considered in the context of planning matters, this approach will require the exercise of particular judgment on the part of the councillor. The use of the term ‘prejudicial’ to describe the interest is helpful here. If a planning matter under consideration relates to another body upon which the councillor serves, the exemption in the Model Code would suggest that the member could participate in a decision on that matter - i.e. membership of that body could not be considered per se a prejudicial interest, which would bar the member.

11.9 However, if a member, in advance of the decision-making meeting had taken a firm view on the planning matter, either in meetings of the other 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, they would have fettered their discretion. Were they to participate in a decision in those circumstances, they might place their authority in danger of Judicial Review.

11.10 There will be occasions when members will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that member be able to vote on any planning application relating to that development? The appropriate action is not clear cut, and may depend on the particulars of the case. However, the general advice would be that a member in such circumstances may well be so committed to a particular development as the result of undertaking the responsibilities of furthering the development of the area, that he or she may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached. Indeed, the member may be seen as an advocate on behalf of the authority or the other relevant body for the development in question. In such circumstances, the appropriate approach is likely to be that the member advocating for the development should not vote on the relevant applications.

12. PARISH OR TOWN COUNCIL MEMBERSHIP

12.1 The Council consults the relevant Parish Council or Parish Meeting on every planning application. Planning Officers may, on request, attend a Parish Council meeting early in the life of an application to explain the facts of the application and any relevant Development Plan policies.

12.2 Difficulties can arise for Councillors who are members of a Parish Council as well as the Borough Council. By taking part in a Parish Council meeting when their comments on an application are agreed, a Borough Councillor will be seen to have made up her/his mind in advance of hearing all the issues at the decision-making Borough Council Committee. The member could be considered to have fettered his or her discretion. In those circumstances the member should not participate at the ~~district~~ Borough Council meeting.

In such cases the member has been excluded not because of the Code but because the member's previous actions had fettered his or her discretion and possibly laid the Borough Council open to the objection that the planning process had been tainted. So, a member has to

choose whether to form a view at an early stage of the process and campaign for or against the planning applications but be excluded from the final decision-making; or reserve judgment until all views have been considered and only then form a view.

'Dual' Members should therefore either:

- *not take part in the discussion of an application at the Parish Council meeting at which comments are agreed; or*
- *not take part in the discussion/decision on the application at the Borough Council Committee;*

Furthermore:

- *although the consultation response from a Parish Council is a relevant consideration, Members should not automatically defer to the Parish Council view, because Parish Councils do not have the advice of professional Planning Officers in reaching their decision.*

13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL

13.1 Members or Officers who are aware of a breach of planning or listed building control on land under their ownership or control should promptly advise the Development Control Manager or the Director of Regeneration and Planning of the breach in writing.

13.2 Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Development Control Manager and the Director of Regeneration and Planning and be the subject of an enforcement report to Planning Committee.

14. OFFICER REPORTS TO COMMITTEE

14.1 To ensure that Committees give due consideration to the development plan and other material considerations, all Committee decisions on planning applications,

enforcement cases and other proposals will normally be taken only after the Committee has received a written Officer report. Written Officer reports will be agreed through the Development Control Manager and will reflect the collective view of the Department - not the view of the individual author.

14.2 Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and applicable policies and their implications for the case; the site or related history (where relevant) and any other material considerations;
- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
- if the recommendation is contrary to the provisions of the development plan, clearly state the material considerations which justify this;
- describe the purpose and content of any conditions, planning agreement or obligation proposed in association with the planning permission.

15. COMMITTEE PROCEDURES

15.1 The procedure for processing planning applications considered by the Council's Planning Committee may be summarised as follows:



15.2 Reports are available to the public five working days before the Committee on request. Paragraph 14.2 describes the content of reports. The application files, containing all comments, are also available at that stage. Late letters and other information may be put to Committee and copies of these are normally available for inspection. The public (including applicants and objectors) can attend Committee meetings and may speak under the terms of the Council's public speaking policy.

15.3 A guidance leaflet on public speaking and the process to be followed is available from the Borough Council. In essence, the officer will explain what is proposed and highlight the key planning issues. An applicant (or agent) wishing to speak on an application can ask to address the Committee for a defined time. Members may then ask questions of that individual if they wish. If an objector wishes to speak they can then do so for a defined time. Again, Members may ask questions of that individual. Members will then debate the merits of the case and arrive at a decision.

15.4 It is important that Members are present throughout all the debate on an item. If any Member has to leave the Committee meeting for any reason, thereby missing any part of the proceedings, he/she should take no further part in the voting arrangements for the item(s) considered during their absence.

15.5 The Planning Committee may agree or disagree with the report and recommendation (but see sections 18 and 19 below). Having considered all the relevant planning matters, the Committee may:

- grant planning permission, usually with appropriate planning conditions;
- refuse planning permission, with justified planning reason(s);
- defer the application for further consideration.

15.6 Planning enforcement decisions are normally taken by the Planning Committee. A written Officer report will normally be prepared in advance of the Committee. The report and the discussion at the Committee on some enforcement matters may not be available to the public, for example if the

Council is considering a prosecution in the courts. Schedule 12A of the Local Government Act 1972 as amended sets out what can be considered in private.

15.7 Decisions on Local Development Framework proposals are referred to the Cabinet or Portfolio Member, following consideration of a written Officer report.

15.8 The procedures governing the conduct of meetings are set out in the Council's Constitution. However, the general public who attend these meetings will usually not be familiar with the Council's Constitution, or this Code. It is therefore important that decisions are made on relevant grounds and that this is the impression left with the public who attend. Responsibility for this rests primarily with the Chairman of the meeting, assisted where appropriate by officers. To facilitate this:

- *a briefing for the Chairman and Vice-Chairman of the Planning Committee will be held after the Officer reports and recommendations have been published. The purposes of these briefings is to inform the Chairman and Vice-Chairman of the issues, to ensure that the rationale for the Officer recommendation is explained, and to identify any potentially problematic or controversial items;*
- *one or more Chartered Town Planners will be present at all Planning Committee meetings at which planning matters are considered;*
- *a Legal Officer will normally also be present.*

16. COMMITTEE SITE VISITS

16.1 The Planning Committee may sometimes decide to visit a site prior to determining an application. Site visits sometimes result from a request by a Ward Councillor. It is acknowledged that this is a proper part of the representational role and should normally be acceded to, so long as the Ward Councillor can justify his/her request in relation to material planning considerations.

Site visits should not be employed merely to appease local interest in an application.

16.2 However, site visits cause delay and add costs for the applicant and Council, and should only be used where there are substantial benefits. Therefore:

- *A site visit is likely to be necessary only if the impact of the proposed development is difficult to understand from the plans and any supporting material, including photographs taken by Officers, or if the proposal is particularly contentious.*
- *The reasons for a site visit should be clearly stated and minuted.*
- *All Members of the Planning Committee will be invited and should make every effort to attend, so that they understand the issues when the matter is considered at the following Committee meeting.*

16.3 Site visit meetings will be conducted in a formal manner:

- *The Chairman should start by explaining the purpose and conduct of the site inspection.*
- *The Officer will describe the proposal and highlight the issues relevant to the site inspection and other material planning considerations.*
- *The Officer will be asked to point out relevant features which can be observed. Members may also wish to point out features which can be observed, or to ask factual questions of the Officer.*
- *To avoid giving an impression of being lobbied, Members should not listen to or talk to any individuals whilst on site, unless being addressed as a group. Any comments should be made to the whole group through the Chair.*
- *The public, applicant or objector may attend the site inspection and will be invited by the Chair to draw Members' attention to any salient features or to any relevant factual information.*
- *Other than to draw Members' attention to any salient feature or to clarify a factual point, the public, applicant and objector will not be allowed to participate.*
- *To avoid Members being spoken to individually, the Chairman should*

endeavour to keep the Committee together as a group.

- *No discussion or decision-making will take place on site.*
- *No hospitality will be accepted before, on or after site visits.*
- *Members or Officers who have any declarable interest which means they should not participate at Committee on determining the application should not attend a site inspection.*

17. DECISIONS DELEGATED TO OFFICERS

17.1 The Council has agreed that decisions on certain types of application can be taken by the Director of Regeneration and Planning through the Development Control Manager or the Assistant Director of (Planning and Economic Development). These are less contentious proposals, although they can be significant in scale. This includes house extensions, advertisements, industrial and housing developments, the discharging of planning conditions and breaches of planning conditions imposed by a Committee. The full list of decisions delegated to the Director of Regeneration and Planning is set out in Appendix 4. The system allows quicker decisions to be taken on straightforward matters.

18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

18.1 Planning decisions must normally be taken in accordance with the Development Plan (see paragraph 5.3).

18.2 *If Officers are recommending granting planning permission contrary to the development plan:*

- *The decision will always be taken by Committee, and not as a delegated decision.*
- *The Officer's report to the Committee must clearly identify the material planning considerations and how they justify overriding the Development Plan.*

- *The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with the Town and Country Planning (General Development Procedure) Order 1995 Article 8.*

18.3 If the decision would be a significant departure from the Development Plan, (as defined by Government Direction) the application will be referred - normally after the Planning Committee has agreed a recommendation - to the Secretary of State for Communities and Local Government to enable him/her to decide whether to 'call in' the application to be decided centrally.

19. DECISIONS CONTRARY TO OFFICER ADVICE

19.1 If the Planning Committee makes a decision contrary to the Officers' recommendation on a planning application or enforcement case, then:

- *the proposer of the motion to go against the Officers' recommendation, or the Chairman, should state the planning reasons for the proposed decision before a vote is taken; the Ombudsman has said that the reasons should be clear and convincing, and be material planning considerations (see section 5 above);*
- *the Planning or Legal Officer present at the meeting should be given the opportunity to comment upon whether the proposed reasons for the decision are planning matters and, if an approval is proposed, to recommend appropriate planning conditions;*
- *if the decision would be contrary to the Development Plan, then the Officer should comment on the extent to which the other planning considerations could be seen to override the Development Plan, and on whether the decision would be a significant departure from the plan requiring (see section 18 above);*
- *where Planning Committee indicates that it is not minded to accept the Officers recommendation for approval, the planning application should be deferred to the next available meeting of Planning*

Committee where so requested by the representatives of the Director of Regeneration and Planning. This deferral period enables Officers to prepare clear and convincing planning reasons for refusal;

- *a detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is contrary to the Development Plan, the minute should state that and clearly set out those planning considerations which override the development plan.*

19.2 If a Committee wishes to amend or add conditions to an approval, Officers should be requested to draft the detailed wording of the conditions in line with the Committee's wishes. Both reasons for refusal and reasons for supporting conditions need to clearly refer to applicable Development Plan policies, where relevant.

20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED

20.1 One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

20.2 The principles which can be distilled from Ombudsman cases are as follows:-

- there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously

refused, where there has been no significant change in the planning circumstances, is maladministration if:-

- insufficient weight has been given to Officers' recommendations and Central Government guidance; and
- there is a failure to give and record reasons for the authority's change of mind.

20.3 Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.

20.4 Therefore:

- *If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman should state what the significant change in the planning circumstances justifying approval are before a vote is taken.*
- *If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman should also state why the Inspector's decision should no longer be followed before a vote is taken.*

21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS

21.1 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. Proposals can take the form of either planning applications or Development Plan proposals, or may involve planning enforcement. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

21.2 Planning proposals from Officers and Councillors (which are otherwise deemed by the Director of Regeneration and Planning, or his representative, to be contrary to the principles set out in the scheme of delegation) shall proceed to determination before Planning Committee, subject to the following principles:

- *Serving Councillors and Officers who submit their own proposal to the authority they serve should play no part in the decision-making process for that proposal.*
- *Such proposals will be reported to Committee and not dealt with by the Director of Regeneration and Planning under delegated powers.*
- *The Council's Monitoring Officer should be informed of such proposals by serving Councillors, and the Officer's report to the Committee will show that the applicant is a Councillor.*
- *Councillors and Officers should never act as agents for people pursuing a planning matter with their own authority.*

21.3 For proposals submitted by close relatives and friends of Officers involved with the development control process:

- *The Officer concerned will have no involvement with the application.*
- *The Officer concerned should alert the ~~Director~~ of Director of Regeneration and Planning and/or the Development Control Manager to the proposal.*

21.4 Where a planning proposal directly affects the property or personal interests of a Councillor, she/he should play no part in the decision-making process. This would apply, for example if a Councillor submitted comments, as a neighbour, on a planning application.

21.5 Similarly, an Officer should have no involvement in processing a planning proposal which directly affects her/his property or personal interests.

22. THE COUNCIL'S OWN DEVELOPMENTS

22.1 Proposals for the Council's own development have to be treated in the same way as those by private developers.

- All applications for the Council's own development, which are contrary to the principles set out in the scheme of delegation, will be reported to Committee and not dealt with by the officers under delegated powers.
- All applications for the Council's own development will be the subject of a written Officer report, as with other applications.

23. THE MEDIA

23.1 The principles of this Code also apply to press contact. Councillors and Officers when commenting to the media on planning matters should:

- *have regard to the points made in the section on lobbying (Section 8);*
- *ensure that they do not give the impression that they have pre-judged the planning application;*
- *make clear that Councillors will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;*
- *for delegated applications, make clear that the Director of Regeneration and Planning or his appointed representative will retain an open mind until such time as the full facts are available and presented for decision.*

23.2 Any Officers can provide facts about a planning matter which are in the public domain and available to the media. However, the media should be referred to the Director of Regeneration and Planning or his appointed representative for attributable comments.

24. RECORD KEEPING AND COMPLAINTS

24.1 The Council has established its own Complaints Procedure. Complaints are first investigated within the Department by an Officer more senior than the Case Officer who has no connection with the planning system.. If the complaint cannot be resolved within the Department it will be referred to the Performance Portfolio Holder for consideration in accordance with the Council's Complaints Procedure.

24.2 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. It is not possible to keep a full note of every meeting and conversation. However, the guiding rule is that every case file should contain an account of the main events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached.

- *The main source of this documentation will be the Officer report to Committee and, if the Committee does not agree the recommendation, the Committee minutes.*
- *For delegated applications, a formal note of the main planning considerations is written and kept on file.*
- *These principles apply equally to enforcement and Development Plan matters.*
- *All Committee reports and delegated decision reports will be checked and agreed by the Development Control Manager.*
- *A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in*

proportion to the significance of the event.

24.3 Section 14 gives more details on what reports contain.

25. TRAINING

25.1 As section 5 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be given to each Councillor and Officer in the Regeneration and Planning Department, including new Councillors and employees.
- The Council will provide periodic training events for Councillors on planning, which all Members should endeavour to attend.
- Members newly elected to the Council should attend a training event on planning within their first year on the Council. A special training event for Members will be held after each four-yearly election of all Members.
- The Council will employ a Chartered Town Planner as Development Control Manager and will attempt to employ trained or Chartered Town Planners to operate its main planning functions.
- The Council will, as far as possible, assist Officers in carrying out training and development activities which enable them to meet the requirements of their post, and enable them to fulfil the 'continuous professional development' requirements placed on Chartered Town Planners.

26. LEARNING FROM PAST DECISIONS

26.1 The lessons to be learnt from any complaint against the Planning Service should be considered, recorded, and any necessary changes to procedures implemented. There will be an annual review by Planning Officers of a selective number of planning decisions which will be appraised through training and

other initiatives, including the visiting of affected sites and so considering where appropriate any complaints to learn from experience.

26.2 The Council is working towards a more systematic way of learning lessons from a sample of past planning decisions and outcomes.

27. HOSPITALITY

27.1 *Councillors and Officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.*

27.2 Councillors should also be very cautious about accepting gifts and hospitality. The Model Code requires any members receiving any gift or hospitality, **in their capacity as members**, over the value of £25, to provide within 28 days of its receipt written notification of the details to the Monitoring Officer of the Council. Such details will go in a register of gifts and hospitality, which will be open to inspection by the public.

27.3 Similarly, officers, during the course of carrying out their duties, 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 as soon as possible. The Council maintains a hospitality book to record such offers whether or not accepted. This book should be reviewed regularly by the Council's Monitoring Officer. The requirement to register any such hospitality is likely to be a feature of the statutory code of conduct for employees.

27.4 The presumption should be that any gift is normally refused.

28. RACIST COMMENTS

28.1 The Council will follow the procedures in the RTPI note "Planning Authorities and Racist Representations". In particular:

- Letters containing racist comments will be returned to the writer;
- Racist comments will not be referred to in reports to Committees;
- Persistent racist comments will be referred to the Commission for Racial Equality or the Police. This is to ensure that the Council abides by Sections 31 and 33 of the Race Relations Act 1976.

28.2 Any applicants suggesting that they have been affected by racial abuse in whatever form, will have their application considered by Planning Committee and the Monitoring Officer will be advised of the circumstances and representations received.

APPENDIX 1: OTHER GUIDANCE**FROM HARTLEPOOL BOROUGH COUNCIL**

Code of Conduct for Members
Code of Conduct for Employees
Council's Constitution
Statement of Community Involvement (2006)

FROM OTHER ORGANISATIONS

'Code of Professional Conduct' The Royal Town Planning Institute, (January 2001).

'Guidance for Good Practice on Members' Interests', the Commission for Local Administration in England, April 1994.

'Probity in Planning', Local Government Association, 1997.

'The Role of Elected Members in Plan Making and Development Control', RTPI, 1997.

'Planning Authorities and Racist Representations', RTPI, July 1996.

'Probity in Planning (Update)', Local Government Association (March 2002)

'Lobby groups', dual-hatted members and the Code of Conduct – Guidance for members, Standards Board for England (September 2004).

'Positive Engagement' – A Guide for Planning Councillors (2005 – updated)

'Model Members Planning Code of Good Practice – ACSeS (2003 –updated)

APPENDIX 2: DUTIES AND SANCTIONS**1. DUTIES OF MEMBERS**

In determining applications, Planning Committee is not bound to follow the Officer's recommendation contained in a report. The Committee should form its own views as to whether permission should be granted. However, this should not be interpreted as meaning that there are no possible grounds for challenge in the Courts, by the Ombudsman or some other external agency whatever Members do for example in approving applications contrary to Officer's recommendations, National and Development Plan Policy.

Members of the Local Planning authority have the following duties:-

- (i) Members must at all times act within the law;
- (ii) The overriding duty of Members is to the whole community, not to individual applicants. For example, the avoidance of sporadic development in the open countryside is in the interests of the whole community;
- (iii) Members have a statutory duty when determining planning applications to have regard to the provisions of the development plan where material to the application and to any other material considerations (Section 70 of the Town & Country Planning Act 1990).
- (iv) Members have a statutory duty to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise (Section 38 of the Planning and Compulsory Purchase Act 2004).
- (v) Members have a statutory duty when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses: Section 16 of the Planning (Listed Building and Conservation Area) Act 1990.
- (vi) Members have a statutory duty when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (vii) Members have a statutory duty when determining planning applications in respect of buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the special character or appearance of the area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. SANCTIONS AGAINST LOCAL PLANNING AUTHORITIES AND MEMBERS

Sanctions against Local Planning Authorities and Members are necessary because duties without sanctions would be potentially unenforceable. This part of the code briefly examines the remedies available to aggrieved persons who consider that the Council has acted unreasonably or unlawfully in making a planning decision and the implications these actions may have for the Council and Members.

The consequences of an unlawful or unreasonable planning decision are that the Council and Members would become subject to the scrutiny of the following external agencies:-

(1) THE STANDARDS COMMITTEE, THE STANDARDS BOARD FOR ENGLAND AND THE ADJUDICATION PANEL

Part III of the Local Government Act 2000 introduced the Ethical Framework for Local Government. This is a statutory framework within which members must operate. Local Authorities including District Councils, Parish and Town Councils have experienced a significant strengthening of the standards of conduct arrangements within which elected and co-opted members must operate, backed up by an external regulator to ensure compliance.

The Ethical Framework has four key elements:

- (1) Codes of Conduct;
- (2) a national regulatory and advisory organisation called the Standards Board for England;
- (3) the Adjudication Panel which may set up a tribunal to consider cases of misconduct by Members and;
- (4) Local Authority Standards Committees.

The framework is concerned with the proper behaviour of politicians in public life, namely:

- (1) the way in which politicians conduct themselves in decision making;
- (2) their relationships with constituents, officials and outside interests; and
- (3) how conflicts of interest are declared and handled in the decision making environment of a Council.

(a) STANDARDS COMMITTEE

Since 8 May 2008 the responsibility for considering complaints that a member may have breached the Code of Conduct rests with the Standards Committees of local authorities. The Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007, provides that a Standards Committee can refer complaints that a member has breached the Code of Conduct to the Monitoring Officer for investigation or other action. The Standards Committee also has discretion to refer a complaint to the Standards Board for England for investigation.

(b) STANDARDS BOARD FOR ENGLAND

The Board, may instruct an Ethical Standards Officers to conduct an investigation. Ethical Standards Officers have considerable autonomy in deciding the approach they will take, with extensive statutory powers to require Councillors to:

- (a) attend before him or her in person;

- (b) furnish information and produce correspondence.

If a Councillor fails to comply with a request of an Ethical Standards Officer this is an offence with a maximum fine on conviction of £1000.

An Ethical Standards Officers will decide either that:

- (a) there is no evidence of misconduct;
- (b) there is evidence but no action needs to be taken;
- (c) that the matter should be referred back to the Standards Committee, or
- (d) that it should be referred to the President of the Adjudication Panel for adjudication by a Case Tribunal.

In assessing these powers, it is important to remember that they are only concerned with misconduct - not with fraud or corruption.

(c) **ADJUDICATION PANEL**

The Adjudication Panel for England is constituted separately from the Standards Board. It will establish case tribunals to consider matters referred to it by the Ethical Standards Officers. The person subject to the adjudication may appear or be represented before the case tribunal. Where that tribunal finds misconduct, it may suspend a member (up to one year, although this must not extend beyond the person's term of office), disqualify from present or future membership (up to five years) or take no disciplinary action. There is a right of appeal to the High Court.

(2) **DISTRICT AUDITOR**

Section 91 of the Local Government Act 2000 introduces a system of advisory notices. Advisory notices will apply to all bodies subject to audit under the Audit Commission Act 1998.

The advisory notice gives auditors time to seek the opinion of the Courts on the legality of an Authority's actions where they consider that the Authority or a committee is contemplating a decision or course of action that would result in unlawful expenditure or other financial loss. This section gives the auditor power to issue an 'advisory notice' in such circumstances, and specifies the form of the notice and how it should be served on the Authority concerned.

An Authority in receipt of a notice must first consider it. If it then decides that it wants to proceed with the action specified in the notice, this section requires the Authority to provide the auditor with written notice of their intentions. Furthermore, it prevents the Authority from proceeding with the activity for a period (of up to 21 days) specified by the auditor in the advisory notice. During this period, the auditor may then choose to seek an opinion from the Court on the legality of the proposed course of action. The Authority may then only proceed with the action if the Court decides that it is lawful or if the auditor does not seek a Court's opinion within the notice period.

Four extraordinary headings of expenditure which could arise from decisions of the Planning Committee are:

- (a) an ombudsman finding of maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
- (b) costs of litigation and award of costs following an application for Judicial Review in the High Court;

- (c) costs of local public inquiries, including possible award of applicants' costs following use of Secretary of State's call in powers;
 - (d) costs of local public inquiries together with landowner's costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.
- (3) **LOCAL GOVERNMENT OMBUDSMAN**

Aggrieved individuals who consider that they have been unfairly treated by the Council may refer their complaint to the Local Ombudsman for investigation to see if they have suffered injustice caused by maladministration.

Examples of maladministration would include:-

- (a) failure to follow a Council's agreed policies, rules or procedure;
- (b) failure to have proper procedures; bias or unfair discrimination;
- (c) failure to give due weight to Officer's recommendations and National Policy coupled with a failure to give and record clear and convincing planning reasons for approving a planning application where a planning application for substantially the same development has previously been refused;
- (d) taking into account irrelevant matters, allowing them to outweigh important planning considerations and failing to take fully into account Government guidance on personal circumstances.

If, after investigation, it is found that injustice has been caused by maladministration, the Ombudsman's report will contain recommendations as to what action the Council ought to take, which may include the payment of compensation.

The powers of the Local Government Ombudsman are contained in the Local Government Act 1974, as amended.

(4) **JUDICIAL REVIEW**

If an aggrieved individual or group of individuals believe that the Council's planning decision is wrong in law, they can make application to the High Court for Judicial Review of the decision, which might result in the planning decision being quashed.

In considering an application for Judicial Review the Court has regard to the following factors:-

- (a) whether the Council determined the planning application in accordance with the Development Plan or other material considerations;
- (b) whether the Council has taken into account an irrelevant consideration;
- (c) whether the Council has failed to take into account a relevant consideration;
- (d) whether there is evidence to suggest that if the Council has taken into account all relevant considerations it could not reasonably have taken the decision it arrived at;

- (e) whether all required procedures had been followed or there had been any procedural unfairness.

If the claimant succeeds on an application for Judicial Review, the planning decision may be quashed. In such circumstances it would be normal for the costs of the claimant's action to be awarded against the Council.

(5) **THE “CALL IN” POWERS TO THE SECRETARY OF STATE**

The Secretary of State has call in powers which can be exercised where a Council appears to be making inconsistent decisions which are seriously in conflict with National and Development Plan Policy. Planning applications called in by the Secretary of State, usually require a local public inquiry to be held, a part of the costs of which may be incurred by the Local Planning Authority. This power is contained in Section 77 of the Town & Country Planning Act 1990, as amended.

(6) **THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION**

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the Local Authority.

APPENDIX 3**DRAFT LETTER FOR LOBBYISTS**

Dear Sir/Madam

The Role of a Councillor in a Planning Application

Thank you for seeking my advice as a Borough Councillor on a planning application. I will do all that I can to see that the matter is dealt with as fairly and as quickly as possible. My role as a Councillor is to listen and assist you and others through the planning process. The process is complex and involves consulting a number of different people. The views of various people will not always coincide.

The Council has adopted policies on most planning matters and it is important that applications are dealt with firmly in accordance with those policies so that decisions are consistent throughout the Borough.

A large number of applications are dealt with directly by Planning Officers under powers delegated to them. Other applications are dealt with by Planning Committee. If I am a member of the appropriate Committee I will have a vote on this application. If not, I may be able to attend the Committee if the application is within my Ward, but not vote. It is not possible for me to provide any commitment or support for an application or objection until I have heard all the facts presented at Committee. I may also be approached by others who will take a different point of view to you and I will therefore need to weigh up all the conflicting considerations.

Any views that you have on an application should be sent directly to the Council's Director Regeneration and Planning and any correspondence or information that I have received will also be passed on to the appropriate officer.

I am required by the Council's Code of Practice not to lobby or attempt to influence Planning Officers or fellow Councillors. I therefore cannot act as an advocate or agent on your behalf.

If I am a Member of the appropriate Planning Committee I may refer you to another Councillor who will help you make out your case.

If I am involved in making a decision on an application I cannot accept any gifts or hospitality from you or be seen to meet you or to meet you on or off site or otherwise give the impression of influence or bias.

I hope this clarifies my role as Councillor in the planning process.

APPENDIX 4: SCHEME OF DELEGATION**Development Control Scheme of Delegation**

As of May 2002 Hartlepool Borough Council has operated revised arrangements for dealing with planning applications.

The new arrangements have been introduced with a view to increasing the number of applications dealt with by Officers in accordance with Government guidelines and targets.

Planning Committee	
Membership:	16
Quorum:	7
FUNCTIONS	DELEGATIONS
1. All functions relating to town and country planning and development control (as set out in Part A of Schedule 1 to the Regulations).	<i>Director of Regeneration and Planning</i> 1. Power to carry out all of the functions of the Committee in paragraphs 1-5 adjacent, subject to the following exceptions:
2. Powers relating to the protection of important hedgerows (as set out in Part I of Schedule 1 to the Regulations).	i) in the case of any relevant application which is submitted to the Council for determination, any matter which any member requests should be referred to the Committee for decision, such request to be received in writing within 21 days of publication of details of the application,
3. Powers relating to the preservation of trees (as set out in Part I, Schedule 1 to the regulations).	ii) any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial,
4. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.*	iii) the determination of applications submitted by the Council in respect of its own land or proposed development, except those relating to operational development to which there is no lodged objection,

Planning Committee (continued)	
Function	Delegation
<p>5. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.*</p>	<p>iv) the refusal of an application except with the agreement of the Chair of the Committee.</p>
	<p>v) except in cases of urgency</p> <ul style="list-style-type: none"> a) power to require the discontinuance of a use of land b) power to serve a stop notice c) power to issue an enforcement notice d) power to apply for an injunction restraining a breach of planning control e) power to require proper maintenance of land f) power to serve a building preservation notice and related powers g) power to issue enforcement notice in relation to demolition of unlisted building in conservation area h) powers to acquire a listed building in need of repair and to serve a repairs notice i) power to apply for an injunction in relation to a listed building, <p>exercise of such powers to be reported for information to the next available meeting of the Committee.</p> <p>2. Power to formulate decision notices following decisions made in principle by the Committee.</p>

Planning Committee (continued)	
Function	Delegation
<p>6. Powers, related to Commons Registration as set out in part B of Schedule 1 to the Regulations. [1B.37 & 38]</p>	
<p>7 Functions relating to public rights of way (as set out in Part 1 of Part I of Schedule 1 to the 2001 Regulations).</p>	<p><i>Director of Neighbourhood Services</i></p> <ol style="list-style-type: none"> 1. Power to negotiate and set charges for diversion or related matters and to take action regarding blockages or Rights of Way issues other than those related to countryside management. 2. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way (other than those delegated to the Director of Community Services), following discussion of the issues with the Chair of the Committee.
	<ol style="list-style-type: none"> 1. In relation to matters which are relevant to countryside management, power to negotiate and set charges for diversion or related matters and to take action regarding blockage on Rights of Way issues. 2. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way which are relevant to countryside management.

Planning Committee (continued)	
Function	Delegation
	<p><i>Chief Solicitor</i></p> <ol style="list-style-type: none"> 1. Power to confirm without modification unopposed creation, diversion or extinguishment Orders in respect of Public Rights of Way, following the statutory advertising period. 2. Power to confirm, without modification, unopposed footpath and footway conversion orders following the statutory advertising period. 3. Power to confirm, without modification, all future unopposed Definitive Map Modification Orders following the statutory advertising period.
<p>8 The licensing and registration functions set out in Part B of Schedule 1 to the regulations at points 41 and 47-55 relating to the New Roads and Street Works Act 1991 and the Highways Act 1980.</p>	<p><i>Director of Neighbourhood Services</i></p> <p>Power to carry out all of the functions of the Committee with the exception of any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial.</p>
<p>*This may also arise in connection with the responsibility of the Executive and will be exercised accordingly.</p>	