

# **STURMINSTER NEWTON TOWN COUNCIL**

## **PROTOCOL FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS**

### **INTRODUCTION**

1. This protocol is intended to give effect to the principle emphasized in the Third Report of the Committee on Standards in Public Life (the Nolan Committee) that members and officers should observe at all times the seven principles of public life, i.e. selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
2. This protocol applies to all members irrespective of whether or not they are members of the Planning & Environment Committee (which, in this protocol means the existing committee and any committee, sub-committee, working party, panel or other body that may replace it in future) and to all officers acting in the course of their employment by the council.
3. Members and officers should also have due regard to the Code of Conduct, the Staff Manual and all other protocols in force from time to time.
4. A breach of this protocol shall be treated
  - 4.1. In the case of a member as a breach of the Code of Conduct and
  - 4.2. In the case of an officer as a disciplinary matter
5. For the purposes of this protocol:
  - 5.1. "Member" includes members of the council and co-opted members of committees of the council
  - 5.2. "Minor Matter" means:
    - 5.2.1. An application for planning permission or listed building consent for works involving only internal alterations; and/or the addition and/or demolition of porches, conservatories, extensions and the like comprising less than 25% of the floor area of a dwelling or garages or other outbuildings;
    - 5.2.2. An application for Consent to an Advertisement that appears to comply with the North Dorset Guide to Shopfront Design;
    - 5.2.3. An application for a Certificate of Lawfulness for an Existing or Proposed Use or Development where there is good reason to believe that no Member has any relevant information or evidence;
    - 5.2.4. Proposed works to a fruit tree or to any other type of tree that do not involve reducing the crown by more than 20% or pruning any branch by more than 2.5 metres
  - 5.3. "Officer" includes every employee of the council
  - 5.4. "Planning Matter" includes:
    - 5.4.1. Applications for planning permission, listed building consent, a certificate of lawfulness of existing or proposed use or development and for consent for advertisements;
    - 5.4.2. Appeals against the refusal or deemed refusal of any application of the kinds described above or an enforcement or stop notice;
    - 5.4.3. Any notices or proceedings designed or tending toward the listing of any building or structure or the protection of any tree;
    - 5.4.4. Notices of an intention or applications for permission to carry out tree works or the removal of a hedgerow; and

5.4.5. Any other applications or procedures of a similar kind about which the council is consulted and invited to comment.

- 5.5. "Pre-Application Process" means any communication between a prospective applicant for planning permission (and/or their agent) concerning a prospective application for planning permission relating to a specific site or sites within the civil parish of Sturminster Newton and a representative or representatives of the council and/or any planning authority but shall not include any communication about other matters (such as, general planning policies or considerations, Neighbourhood Development Plans, or the local Infrastructure Delivery Plan or Community Infrastructure Levy).
- 5.6. "Resolution" means a decision made by the council (or made by a committee of the council in accordance with its delegated powers) regarding the comment to be made on behalf of the council or other response in respect of a Planning Matter and shall include a decision to make no comment or take no action.

## LOBBYING OF MEMBERS

6. Lobbying about Planning Matters by applicants and objectors is a normal part of the political process. It may take the form of public or private meetings, formal presentations or correspondence. As a general rule (and subject to the specific rules set out below) Members should be willing to listen to comments about Planning Matters and to articulate the views expressed to them in the course of council debates whether they agree with them or not. However, lobbying should not occur to such an extent that it compromises the impartiality of the planning process. A member should never indicate how they intend to vote in respect of a Planning Matter in advance of the consideration of it at a meeting of the council or committee. A member may hold and even express strong views but in doing so should make it clear that they are keeping an open mind until they have heard all the relevant considerations.
7. Subject to paragraph 13 below, Members must retain an open mind about every Planning Matter until it has been formally debated and a Resolution made in respect of it. Accordingly, whilst Members may acknowledge comments and concerns expressed to them about any Planning Matter, they must take care not to express an opinion or to do or say anything else that may suggest partiality or pre-determination of their view on a pending or possible Planning Matter. Members should encourage constituents or other interested parties to submit their comments or concerns to the Town Council in writing.
8. Members should take special care when involved in any Pre-application Process. In particular and subject to paragraph 13 below, individual Members:
- 8.1. Must not encourage potential applicants to exclude other Members or Officers from such discussions and should not participate in discussions from which they know or suspect that other Members or Officers have been deliberately excluded;
  - 8.2. Must make clear that any opinions they express are theirs alone and do not necessarily represent agreed council policy;
  - 8.3. Must not promise or undertake or commit themselves in any way to support or oppose a planning application, appeal or other process (whether pending or possible) or to vote (either for or against) or abstain from voting on any motion that may be made at a meeting of the council or one of its committees in respect of such matters.
  - 8.4. Should not agree to receive information relevant (or potentially relevant) to a Planning Matter on terms that prevent them from disclosing it to other Members or Officers other than in confidence.

- 8.5. Should keep a record of their involvement in such discussions and must provide a full and frank account of such involvement if so requested at a meeting of the council or one of its committees or by the Town Clerk.
9. Subject to paragraph 13 below, invitations to individual Members to attend presentations, meetings with the applicant or others or other discussions about any Planning Matter already pending and about which no Resolution has been made, should be declined. If any Member considers that a site visit would be beneficial then he or she should ask the Town Clerk to arrange this whereupon paragraph 19 below will apply.
10. If a Member receives correspondence from an applicant or a third party relating to or concerning a Planning Matter it should be notified and a copy provided to the Town Clerk.
11. If a Member is approached personally by an applicant or a third party, the approach should be notified to the Town Clerk.

#### LOBBYING BY MEMBERS

12. Subject to paragraph 13 below, Members should not organize support for or against a Planning Matter and should not lobby other members.

#### MEMBERS WHOSE IMPARTIALITY HAS BEEN COMPROMISED

13. Circumstances may arise when a Member's impartiality in respect of a Planning Matter has been compromised (whether intentionally or unintentionally and whether as a result of actions contrary to paragraphs 7 or 8 or 9 or 12 above or otherwise). This may arise simply because a member has strongly-held and well-known views on particular issues. Members in this position who wish to attend a council or committee meeting at which that Planning Matter is to be considered need to take particular care and:
  - 13.1. Must declare this under the agenda item for declaration of interests
  - 13.2. May (unless in possession of information relevant to the Planning Matter concerned that cannot be disclosed to other Members or Officers other than in confidence) address the meeting during the public session in order to express their own views or the views of others expressed to them but must confine their remarks to considerations which are material to the Planning Matter in question and
  - 13.3. Must when the Planning Matter is to be considered, leave the room and take no part in the debate or vote about the Resolution to be made in respect of itProvided these principles are strictly adhered to the Members concerned shall not be considered to be in breach of this protocol.

#### PERSONAL INTERESTS

14. It is a fundamental principle that those who have a material interest in the outcome of a particular planning application should not make decisions relating to that application.
15. A Member or Officer shall be regarded for the purposes of this protocol as having a Personal Interest in a Planning Matter if the outcome of the Planning Matter is likely, on the balance of probabilities, to have an effect that is more than trivial on the value of any Disclosable Pecuniary Interest belonging to the Member or Officer or his or her spouse or partner.
16. Personal Interests must be declared under the agenda item for declaration of interests. Members or Officers having Personal Interests may address the meeting at which the

relevant Planning Matter is to be considered during the public session but must confine their remarks to considerations which are material to the Planning Matter in question. Such Members must, when the Planning Matter is to be considered, leave the room and take no part in the debate or vote about the Resolution to be made in respect of it. An Officer having a Personal Interest must take no other part whatsoever in the decision-making process.

17. Members who regularly act as agents for people pursuing Planning Matters should not serve as members of the Planning & Environment Committee and must leave the room during discussions of Planning Matters at council meetings.
18. Circumstances may arise in which a Member considers that even though he or she has no Personal Interest in a particular Planning Matter nevertheless it would be desirable that he or she is seen not to participate in the debate or vote about the Resolution concerning it. In such cases he or she should declare that he or she has an interest that is not a Disclosable Pecuniary Interest in the matter and should leave the room whilst the Planning Matter is considered.

#### SITE VISITS

19. Members may view the site of a Planning Matter from areas that are accessible to the public. In no circumstances should a Member enter land without the permission of the landowner and the occupier. If a site visit has been requested the Town Clerk should make every reasonable effort to arrange such a meeting; inviting all Members and the applicant (who may appoint a representative to attend as well or instead) and attending himself or herself. If it is not possible for any other persons to attend, the meeting must not take place; under no circumstances should a single member meet alone with the applicant and/or the applicant's representative.

#### DECISION MAKING

20. Members may make representations on behalf of their constituents but when doing so should make it clear that it is their constituent's views and not the Member's own that are being expressed. Any representation should not unfairly promote the views of one group against another.
21. Decisions should be based on material planning considerations. (Members have been issued with a check-list of relevant planning considerations).
22. Members are not obliged to follow advice given by Officers. However, if members pass a Resolution that is substantially contrary to an Officer's advice reasons which can be justified on planning or other relevant grounds should be given.

#### MEMBERS WHO ARE ALSO DISTRICT OR COUNTY COUNCILLORS

23. Any Member who is also a member of North Dorset District Council and/or Dorset County Council may be involved in a Planning Matter in that other capacity either before or after a Resolution is made about it by this council. Such Members must take special care not to form (or give the impression of having formed) fixed views on Planning Matters in advance of their consideration by any council of which they are members. This may require that they declare that their impartiality has been compromised in accordance with section 13 above or that they abstain from commenting or voting on a Resolution (and ask that this be minuted).

#### MEMBER TRAINING

24. Members need to have an adequate knowledge of the planning process and should undertake all necessary training. The Town Council will pay for Members to attend relevant training sessions organized by DAPTC.

## OFFICERS

25. Officers may seek information regarding any Planning Matter from any person but should not express any opinion on the merits or the likely terms of any Resolution which may be made and must not give or purport to give any commitment binding on the council. While pre-application discussions with Officers can be helpful, they should be recorded and remain within the criteria laid down as genuine planning considerations.
26. Any advice given to Members or guidance given to others by an Officer cannot bind the Town Council in respect of any Planning Matter.

## DELEGATED POWERS

27. The Town Clerk shall have the power to comment upon a Planning Matter for and on behalf of the Council in the following circumstances only:
  - 27.1. There is insufficient time for the matter to be dealt with at a scheduled meeting of the council or the Planning & Environment Committee; and
  - 27.2. Either:
    - 27.2.1. An extension of time to respond has been requested and refused; or
    - 27.2.2. The Planning Matter in question is a Minor Matter; and
  - 27.3. Details of the Planning Matter have been circulated by email to all Members and there has been no request by at least two Members for an extraordinary meeting to be convened in order to consider it; and
  - 27.4. The Town Clerk has made reasonable efforts to consult with either the chairman of the Planning & Environment Committee or the Town Mayor about the Planning Matter and had due regard to his or her observations.

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Adopted: January 2016