

APPENDIX 1

PLANNING MATTERS : LOCAL PROTOCOL FOR COUNCILLORS

(Report prepared by Clare David)

1.0 Purpose of the Report

For Members of the Planning Committee to decide whether to recommend to the Standards Committee that the revisions to Planning Matters: Local Protocol for Councillors as contained in this report should be approved.

2.0 Background

The Protocol does not form part of the Council's Constitution but is a subsidiary document that sits alongside it. It describes how the Council deals with planning applications and other related planning matters including those relating to planning policy and recognises the separate roles of Councillors and Officers. The third version of the Protocol was adopted by the Council in September 2009.

The Planning Service has been the subject of a considerable number of service structure reviews and internal and external audits over the past few years and considerable changes have been made to implement the outcomes of these reviews. In order to bring the Protocol up to date with the existing and proposed improvements and changes to the Council's Constitution, Members of the Planning Committee are asked to consider recommending the following revisions:

1. Discussions with Applicants (Section 2 and Appendix 1).

The Protocol has been updated to take into account a number of changes to the way planning applications are dealt with as a result of the Planning Services Improvement Plan but principally because of the introduction of Development Management. The Council is committed to providing a Development Management service for local communities; inward investors; developers; other statutory bodies and infrastructure providers in order to promote high quality, sustainable development. A Development Management approach, however, will necessitate a change in the way that both officers and elected Members work within the planning applications system. Development Management, for example, encourages Councillors to be involved in pre application discussions to act as champions of their communities but without prejudicing their role as decision makers. The Protocol provides updated advice on this.

2. Reports to Planning Committee (Section 7 and Appendix 2).

This section has been updated to reflect the new Planning Committee report template as suggested by the Haslam Report. In 2009 Michael Haslam OBE BSc (Econ) MRTPI of Michael Haslam Associates Ltd was commissioned by the Council to consider the arrangements for reporting applications to the Planning Committee. A number of recommendations were made in the report, one of which was a revision to the report template to make it more focussed and aid Members in the decision making process. These changes are reflected in the revised Protocol.

The revised Protocol also makes reference to how decisions that are taken by the Planning Committee that are contrary to the officer's recommendation will be dealt with (para. 7.5). Where the Planning Committee makes a decision on a planning application contrary to the Officer recommendation, or on a draft planning policy or

land allocation which departs from the Officer recommendation, this can be difficult to justify if challenged. It is therefore important that there is a clear written audit trail recording the reasons for and source of all such departures. Where a planning application is determined contrary to the Officer recommendation, Members will provide officers with reasons based on proper planning grounds and these will either be recorded in the Minutes or a recording of the meeting will be taken. A guidance note for dealing with applications at meetings of the Planning Committee when Members disagree with the Officer's recommendation was approved by Planning Committee on 5 January 2010 (minute no. 137 refers) and is contained in full at Appendix 2 of the Protocol.

3. Planning Committee Site Visits (Section 9 Para. 9.5)

This section of the Protocol is updated to take into account the proposal to hold Member site visits to all those sites on a Planning Committee agenda on the day of that Committee.

4. Changes in Section 12 , 13 and 14 to reflect the Contents of the Constitution

Sections 12 and 13 relate to planning applications made by or on behalf of the Council as landowners or by Members of the Council. Section 14 relates to substitute Members on the Planning Committee and has been updated. These have been amended to reflect the Council's Constitution.

The proposed revisions are included in full at Attachment 1. Wherever possible the changes are indicated in italic text.

3.0 Recommendation

Recommendation:- That Members agree the amendments to Planning Matters: Local Protocol for Councillors and refer to the Standards Committee for formal adoption.

ATTACHMENT 1

Planning Matters: Local Protocol for Councillors

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The Protocol

1. Planning applications and the way they are decided through the *development management* process can attract a great deal of public and media interest. It is therefore important that the whole system is fair and is transparent and free from improper influence.
2. The Council has a Members' Code of Conduct which was adopted on 26 June 2007. This Protocol is additional to that Code and applies to all Members, and contains important advice about how to deal with planning issues. Whilst the guidance contained in the Protocol is advisory, when a Councillor acts in breach of it, this may put the Council at risk of legal proceedings, a complaint alleging maladministration or an application for a costs award against the Council at the conclusion of a planning appeal. It could also result in a complaint to the Council's Standards Committee.
3. The Protocol describes how the Council deals with planning applications and other related planning matters including those relating to planning policy and recognises the separate roles of Councillors and Officers.
4. *The Protocol has been updated to take into account a number of changes to the way planning applications are dealt with as a result of the Planning Services Improvement Plan but principally because of the introduction of Development Management. The Council is committed to providing a Development Management service for local communities; inward investors; developers; other statutory bodies and infrastructure providers in order to promote high quality, sustainable development. A Development Management approach, however, will necessitate a change in the way that both officers and elected Members work within the planning applications system. Development Management, for example, encourages Councillors to be involved in pre application discussions to act as champions of their communities but without prejudicing their role as decision makers. The Protocol provides updated advice on this and other issues.*

Section 1 - The Role of Councillors

- 1.1 In making decisions on applications, Councillors must:-
 - act fairly and openly and be willing to listen to all sides of the debate;
 - approach each application with an open mind and in the wider public interest rather than pre-determination;
 - carefully weigh up all the material planning considerations;
 - avoid undue contact with interested parties;
 - not lobby or pressurise other Councillors and/or Officers; and

- keep all information confidential which has that status.
- 1.2 The planning system exists to consider development policies and proposals in the light of the wider public interest. Councillors must take into account the interests of the whole District, not just their own wards and act in a way which is fair and is clearly seen to be so.
 - 1.3 Councillors must not involve themselves in formal decision-making on a matter where they have a prejudicial interest and/or there is an appearance of bias. The definition of “prejudicial interest” is set out in the Members’ Code of Conduct. Bias arises when a fair-minded and informed observer would conclude that there was a real danger that the Councillor approached the decision with a closed mind and/or without the fair consideration of all relevant planning issues.
 - 1.4 Councillors must not instruct or pressurise Officers to make a particular recommendation on any application.
 - 1.5 Councillors can expect Officers to give them every reasonable help in answering questions on planning matters.
 - 1.6 Councillors must be free to vote in the way they consider appropriate, that is, without a Party “whip”.
 - 1.7 Councillors must take account of all the relevant planning information, evidence and issues including the Officers’ recommendations. These will include the “development plan” and all relevant material planning considerations.
 - 1.8 *Councillors are encouraged to take part in discussions on development proposals at all relevant stages where at least two of the Council’s Planning Officers are present, including when options are being scoped and plans shaped, without prejudicing their decisions or compromising the integrity of the process.*

Section 2 - Discussions with Applicants

- 2.1 *At present the Council encourages Officers to have meetings with prospective applicants before they make a planning or other types of application. This helps to address any potential issues or problems at an early stage and assists in the efficient handling of the formal application for planning permission. These meetings have normally only involved Officers (not Councillors).*
- 2.2 *In the past the traditional ‘development control’ approach to managing development proposals has focussed on processing applications and enforcing contraventions. Development Management aims to actively promote sustainable development and provide a place shaping role. In order to do this it will be essential to alter the way in which both officers and elected Members work within the planning applications system. It will change the way the Council works with developers, the community, other statutory bodies and infrastructure providers to make planning consideration a tool for achieving better outcomes rather than a simple test of adequacy. In order to do so, Members are to be involved in pre application discussions to act as champions of their communities but without prejudicing their role as decision makers. An advice note has been produced to assist this process and is contained at Appendix 1 to this Protocol.*

- 2.3 Councillors will not normally take part in post-submission meetings unless the matter has been reported to the *Planning Committee* and the Councillors concerned have been appointed by the Committee.

Section 3 - Role of Informal Briefings

- 3.1 To assist in the decision-making process, Councillors may request Officers to discuss underlying issues/policies relating to major development proposals. These discussions must not extend to detailed discussion on the merits of any particular proposal.

Section 4 - Lobbying

- 4.1 It is common for applicants and others to want to discuss a proposed development before and/or after an application is submitted. This can help the Council to gain a better understanding of the issues involved. However, to avoid compromising their position before they have received all the relevant information, any Councillors who are likely to sit as Members of the *Planning Committee* (or as substitute) when it determines the application should:-

- not make it known in advance whether they support or oppose a proposal;
- not risk the appearance of bias by expressing support for, or opposition to, a proposal;
- not organise support or opposition for a proposal or (except when speaking before the *Planning Committee*) lobby other Councillors;
- limit their reply to explaining the procedure;
- direct lobbyists or objectors to the case Officer; and
- tell the *Head of Planning Services* or the Chairman of the *Planning Committee* about the existence of any lobbying interests.

- 4.2 Councillors who do not sit as members of the *Planning Committee* (or as substitutes) when it determines the application are free to express their views provided that their actions do not undermine and are not perceived to undermine the fairness of the *Planning Committee* when making its decision. However, Councillors with a prejudicial interest in an application can only attend the *Planning Committee* for the purpose of public speaking (where they have that right) and must leave the meeting immediately after they have spoken and may not then sit in the public gallery until after the *Planning Committee* has determined the application.

- 4.3 It is not improper or unlawful for Members of the *Planning Committee* and substitutes to be predisposed about a particular application provided that they are not predetermined and it is clear to all concerned that they are still prepared to listen to all sides of the argument and to act fairly in relation to the determination of the application.

- 4.4 The use of whipped votes at group meetings, or reliance on party political loyalty, to compel or pressurise a Councillor to vote on a planning application in

a particular way is grossly improper and will amount to maladministration.

- 4.5 Moreover, the Court of Appeal has endorsed the principle that the use of whipping in relation to the determination of a planning application may be grounds for seeking a judicial review. Votes in Committee and Council on planning applications are a matter of individual conscience based on planning judgement and should not under any circumstances be influenced or controlled by whipped votes.
- 4.6 Any Member of the *Planning Committee* who publicly expresses a final view on an application before the Committee meeting at which a decision is to be taken, should consider themselves biased, and may not sit on the *Planning Committee* or vote on that particular application. They may speak under the public speaking scheme, if that scheme so permits, and must then withdraw from the meeting.
- 4.7 A non-*Planning Committee* Councillor who had previously expressed support for a particular body of opinion, who is subsequently substituted onto the *Planning Committee* will equally not be able to take part in the proceedings on that application. They may participate in public speaking where that scheme so permits, provided they then withdraw from the meeting.
- 4.8 Any substitute must exercise their own independent judgement on all matters to be decided. No Councillor may instruct a substitute to vote in any particular way or to lobby, coerce or canvass the substitute about any particular planning issue.
- 4.9 *Planning Committee* Members and substitutes who consider an application at a town or parish council meeting may have a provisional view and are entitled to be predisposed provided that it is clear to all concerned that they are still prepared to listen to all sides of the argument and act fairly in relation to the consideration of the application.

Section 5 – Participating in policy development

- 5.1 Members will follow the guidelines set out in the Council's Statement of Community Involvement in playing their part and advising others in the development of planning policies.

Section 6 – Making Representations at a Planning Inquiry or Hearing

- 6.1 Councillors may attend a Planning Inquiry or hearing before a Planning Inspector(s) in relation to a planning application or policy matters. Councillors who wish to make personal representations (whether oral or in writing) to the hearing or inquiry must make it clear to the Inspector(s) and the public that they are not expressing those views in their capacity as a Councillor. No Councillor may use or seek to use their position as a Councillor unfairly for personal gain or otherwise.

Section 7 - Reports to the *Planning Committee*

- 7.1 The terms of reference of the *Planning Committee* are set out in the Council's Constitution including the types of applications which will be reported to the Committee rather than delegated to the Officers.

- 7.2 Committee reports will normally be available at least five clear working days before the meeting.
- 7.3 All applications referred to the *Planning Committee* for decision will have a full written report from Officers, which will include:
- *Application details (reference number; applicant's name etc)*
 - *an executive summary of the Officers' recommendations (to include a summary of each of the conditions/reasons for refusal;*
 - the nature of the proposals;
 - a clear explanation of relevant policies in the Development Plan, the site and its location and relevant planning history;
 - the views of statutory and other consultees;
 - a response to any substantial objection(s) from the public;
 - a reasoned appraisal of the planning policies relating to the proposal and any other material planning considerations; and,
 - a clear recommendation.
- 7.4 Any relevant planning information which is received after the written Officer report has been finalised but prior to 1pm on the day of the *Planning Committee* meeting will be presented by Officers as an addendum to their report. In the event of significant changes occurring after the finalisation of the Officer report, the *Head of Planning Services* may defer consideration of the relevant application.
- 7.5 *Where the Planning Committee makes a decision on a planning application contrary to the Officer recommendation, or on a draft planning policy or land allocation which departs from the Officer recommendation, this can be difficult to justify if challenged. It is therefore important that there is a clear written audit trail recording the reasons for and source of all such departures. Where a planning application is determined contrary to the Officer recommendation, Members will provide officers with reasons based on proper planning grounds and these will either be recorded in the Minutes or a recording of the meeting will be taken. Officers through the Chairman need to be able to assist members in ensuring that the grounds for refusal and the reasons behind them are appropriate in relation to the policy framework and will offer suitable guidance on wording and the relevant policy where professionally possible. A guidance note for dealing with applications at meetings of the Planning Committee when Members disagree with the Officer's recommendation was approved by Planning Committee on 5 January 2010 (minute no. 137 refers) and is contained in full at Appendix 2.*

Section 8 – Members' Written Representations on an Application

- 8.1 Members may submit written representations on a planning matter to the *Planning Committee* or a Planning Inspector, or pass on comments they have received from constituents, which may include letters and/or petitions.

- 8.2 To be considered material to the determination of an application, these written representations must have some genuine planning relevance to the application. The weight to be given to any such representation will depend on the extent of this planning relevance, not on the number or length of representations made, nor on the number of signatures. Members should therefore try and keep their written representations as short and simple as reasonably possible. *Suitable guidance from an Officer (other than the case officer) will be provided, where professionally possible.*
- 8.3 Where Members' comments are at odds with the Officers' recommendation on a particular planning application, Part 3 Delegated Powers of the Constitution sets out the arrangements for dealing with the application concerned. (See *Planning Committee Delegation to Officers section - Part 3.82-3.86*)

Section 9 – Planning Committee Site Visits

- 9.1 All application sites are visited by Officers as part of the application process *whether these are Planning Committee items or delegated applications.*
- 9.2 *In the future all Members of the Planning Committee will be invited and expected to attend a site visit on the day of Planning Committee for all those applications being considered at the formal meeting of the Planning Committee later in the day. Local Ward Members and a representative of the local Town or Parish Council will also be invited to join the Members of the Planning Committee at the relevant site visit.*
- 9.3 No Councillor with a prejudicial interest in the application concerned may attend the site visit to which it relates.
- 9.4 Councillors attending formal site visits by the *Planning Committee* will be accompanied by an appropriate Officer(s) of the Council.
- 9.5 The purpose of the site visit is fact finding only.
- 9.6 The Chairman will open the formal site visit and invite Officers to point out relevant features of the site and its surroundings. The Chairman will then invite the applicant, local Ward Members present, Town or Parish Councillors and local residents present (one at a time) to point out any relevant features of the site and its surroundings, ask related questions and raise any site-related issues that they wish to draw to the attention of Councillors. Councillors will be able to see the physical features of the site and ask questions of any speaker. There must be no discussion of the merits of the case, and all questions from Councillors and other speakers must be put through the Chairman.
- 9.7 When Councillors on the *Planning Committee* are on site visits they must not make any comments that could give the impression that they have already made their minds up about whether the application should be approved or refused. No decision on the application will be made until the formal meeting of the *Planning Committee*, where Councillors will have before them all necessary information to be able to make a properly informed decision.
- 9.8 The visiting *Planning Committee* party will stay together as a group. No lobbying by applicants or objectors will be allowed. If an applicant or group persists in attempting to lobby, all Councillors and Officers will leave the site.

- 9.9 Once all questions are completed and Councillors have completed their inspection of the site the Chairman will formally close the site visit. All Councillors should then leave the site.
- 9.10 Councillors may undertake site visits independently, but when doing so they should not discuss the merits of the application with any other party.

Section 10 – Enforcement

- 10.1 The Council may receive information and/or complaints about breaches of planning from one or more informants whose identity and personal details are confidential. Where Councillors are provided with any of this information on a strictly personal “need to know basis”, it must not be divulged to any other person.

Section 11 - Disclosure of interests

- 11.1 Rules and guidance for Councillors on declaring their interests are set out in the Code of Conduct. Councillors must follow these rules and guidance and also review their own situation regularly.
- 11.2 Councillors who are unsure whether an interest should be declared should seek the advice of the Monitoring Officer in advance of the meeting (or the Deputy Monitoring Officer at the *Planning Committee*).
- 11.3 A Councillor with an interest in a planning application must make a written declaration of it on the appropriate form to the Monitoring Officer as soon as they are aware of it. Completed forms will be kept on the Members’ Register of Interests, which is available for public inspection.
- 11.4 Councillors should avoid receiving hospitality from anyone with an interest in a planning proposal. Where this is unavoidable Councillors should ensure that they declare its receipt, as soon as possible, by completing the appropriate Register of Members’ Interests form and sending it to the Monitoring Officer.

Section 12 – District Council applications

- 12.1 Where the Council as landowner wishes to carry out development requiring planning permission, a formal planning application must be submitted to the Council as the Local Planning Authority and will be treated in the same way as those submitted by private applicants.
- 12.2 *All such applications must be decided by the Planning Committee whether they are made by the Council or someone acting as applicant on its behalf.*

Section 13 - Applications submitted by Councillors

- 13.1 *Applications which are submitted by or on behalf of Councillors, will be reported to the Planning Committee for a decision where the recommendation is one of approval and the Head of Planning Services (or equivalent authorised officer) considers that the application should be considered by the Committee in the interests of openness and transparency. Councillors should make a written declaration of interest in the planning application to the Monitoring Officer in accordance with the provisions of Section 11 above.*

- 13.2 The Councillor concerned can still participate in public speaking if they are eligible to do so, provided that they leave the *Planning Committee* meeting immediately after they have done so.

Section 14 - Training

- 14.1 *Members that have been nominated by their Group leaders can act as a designated substitute member of the Planning Committee. Any member of a political group is eligible to be a designated substitute Member providing that they have received training in relation to development management matters under a continuing programme arranged by the Council.*
- 14.2 The Council provides training for Councillors on development management, local plan making and/or other planning matters at least once a year. The Council also aims to provide more specialist training to update knowledge, cover particular topics or to look at matters in greater depth. Training events are open to all Councillors and, where places are limited, current members of the *Planning Committee* will take priority.

Section 15 - Review of this Local Protocol

- 15.1 This Protocol will be reviewed periodically to ensure it remains up to date.

APPENDIX 1

ADVICE NOTE FOR MEMBER INVOLVEMENT IN PRE APPLICATION DISCUSSIONS

INTRODUCTION

In December 2009 the Department of Communities and Local Government (DCLG) published a consultation document entitled "Development Management: Proactive planning from pre-application to delivery". Development Management introduces a proactive and engaging approach to dealing with developments as opposed to the traditional regulatory role that has been taken in the past. A greater emphasis is placed on pre application discussions.

The Council is committed to providing a Development Management service for local communities; inward investors; developers; other statutory bodies and infrastructure providers in order to promote high quality, sustainable development. A Development Management approach, however, will necessitate a change in the way that both officers and elected Members work within the planning applications system. Development Management encourages Councillors to be involved in pre application discussions to act as champions of their communities but without prejudicing their role as decision makers.

The purpose of this advice note is to provide clear guidance to ensure that elected Members can take part in discussions on development proposals at all relevant stages, including when options are being scoped and plans shaped, without prejudicing their decisions or compromising the integrity of the process.

WHAT SCHEMES WILL BE CONSIDERED?

The level of pre-application engagement will depend on a range of considerations, including: the scale and complexity of the proposal; and the willingness of those proposing the development to engage in the process. It is more likely that pre application discussions will occur on major proposals of strategic importance that will shape the future of our communities and help to deliver the Council's aspirations in the Local Development Framework (LDF); the Corporate Plan; and the Sustainable Community Strategy.

The schemes will be selected for consideration by the Head of Planning Services (or their representative). The agreement of the developer will always be necessary.

The majority of pre application discussions will continue to be undertaken by officers. However, this does not preclude the involvement of Members in minor proposals where it is held that these may be of particular significance to a local community. This will be at the discretion of the Head of Planning Services (or their representative). The same guidance applies, regardless of the scale and nature of the proposal.

HOW WILL THE SCHEMES BE CONSIDERED?

The selected schemes will take the form of pre organised meetings with applicants and developers at the invitation of the Head of Planning Services (or their representative). The timing of these meetings will be essential to ensure that developments evolve through genuine discussion. Before any Member involvement a pre application scheme will have first been considered by the Council's Development Team and potentially by the Essex Design Initiative Panel (or alternative design expert). For certain major, complex proposals it may be necessary to have more than one Member meeting and, to this end, a schedule of involvement will be agreed with the developer by officers.

Members should only attend those meetings organised in accordance with this advice note and not arrange private meetings with developers.

WHO WILL ATTEND?

The meetings will be attended by:

- *The Portfolio Holder for Planning*
- *The Chairman and Vice Chairman of the Planning Committee*
- *Local Ward Members*
- *The relevant Member for Essex County Council*
- *Any other Members at the discretion of the Head of Planning Services*
- *The Head of Planning Services or the Executive Manager – Planning Services*
- *At least one other officer from Planning Services*
- *The applicant/developer and/or their representative*
- *Any other statutory or non-statutory bodies at the discretion of the Head of Planning Services*

All District Members attending pre application discussions must have first attended a training session on conduct at pre application discussions. These training sessions will be organised by the Head of Planning Services on a regular basis in order to ensure that the integrity of the Member's decision making role is maintained.

HOW WILL THE MEETING BE CONDUCTED?

All pre organised pre application meetings will be conducted as follows:

- *The Head of Planning Services, or their representative, will introduce the purpose of the meeting and advise how it will be conducted. **The officer will make it clear to the applicant/developer that the role of the Member is to listen to the discussion,***

identify issues that the developer will need to consider and to represent community interests but that it will not be possible for any Member to enter into negotiations or express a view on the proposal. Members will be advised by the officer as to the confidentiality status of the proposal.

- *The Head of Planning Services, or their representative, will then Chair the meeting.*
- *Introductions will be made.*
- *The developer will present the proposal (the presentation having first been viewed by a senior planning officer and if necessary a legal officer). The presentation may also be supported by an organised site visit.*
- *Members will then have the opportunity to ask questions and seek clarification. They may alert the developer to what they perceive as the likely view or concerns of their constituents but **care will need to be taken that personal views are not expressed.***
- *The Chair will then thank the applicant/developer at which point they will leave the meeting.*
- *Members will then advise officers of any concern they have with the proposal and any elements which they feel would benefit from negotiation with the developer. They will then be guided by professional officers as to what negotiations would be reasonable and align with LDF policy. Negotiations will be undertaken at a future date by professional officers only.*
- *The Chair will then conclude the meeting.*

A planning officer will take notes of the meeting and record all those present, plus any issues identified. These notes will be circulated to the Member and officer attendees and, after confirmation of accuracy, they will be forwarded to the applicant and posted on the Council's website.

APPENDIX 2

Guidance Note For Dealing with Planning Applications at Meetings of the Planning Committee when Members disagree with the Officers' Recommendation

1. The Local Planning Authority has a duty under section 38 (c) of the Planning and Compulsory Purchase Act 2004 to determine applications in accordance with the development plan (adopted policy) unless material considerations indicate otherwise. The Council has an up to date Local Plan in place that was adopted on 11 December 2007 following external scrutiny at a Public Inquiry which reduces the likelihood of other material considerations carrying sufficient weight to justify setting aside the policies in the Local Plan.

2. Officers are trained and qualified to prepare balanced Committee reports and recommendations which comply with legal requirements, regulations and planning procedures as well as central government guidance and advice. It is their role to prepare written reports based upon the relevant policies, to assess any material considerations that might be put forward in support of a particular application against the relevant policies and make reasoned recommendations to the Planning Committee regarding each planning application.

3. Officers attending the Planning Committee need to be aware that Members are perfectly entitled to reach a different conclusion on the weight to be given to the material considerations and/or to particular policies.

4. Where one or more Planning Committee Member wishes to propose that a planning application should be determined contrary to the Officers recommendation the substance of the reasoning should be put forward and summarised by the mover in layman's terms. After this has been done, Officers will advise on the proposed motion. The reasons must be based on proper planning grounds with valid evidence which is sustainable at an appeal. Subject to these requirements the motion can be accepted, but must be summarised and clarified by the Chairman before being debated and voted on.

5. When there are Members' reversals of Officer recommendations at Committee it is essential that there is either a recording of the meeting or a clear written audit trail in the minutes of the reasons for and the source of the decision. In particular, the minutes should explain why members gave different weight to the Officers' assessment of the planning policy framework and any other material consideration(s).

6. Members' decisions on a planning application at the Planning Committee which are contrary to the Officers' recommendation, can in many circumstances be difficult to justify, and in exceptional circumstances may expose the Council to a legal challenge or a claim for an award of costs if there is an appeal against the refusal of planning permission. The power to award costs has been extended to appeals dealt with by written representations. The Council's Solicitor attending the meeting and the Planning Managers will provide professional advice to the Committee where it is felt that Members' proposed decision may put the Council at such risk. Where the Committee is being asked to consider a large or complex application and Members are minded to approve or refuse the application contrary to the Officer's recommendation then it may be preferable to adjourn or defer the Committee meeting to provide Officer's with the opportunity to be able to advise Members accordingly.

7. A member who has concerns or queries regarding a particular recommendation may find it helpful to discuss their views with the Planning Officer(s) concerned at least one working day before the meeting so that appropriate advice can be given.

8. It is not the role of Officers to lead and/or provide reasons for members in arriving at a contrary decision, but as explained in paragraph 4 above, Officers through the Chairman need to be able to assist members in ensuring that the grounds for refusal and the reasons behind them are appropriate in relation to the policy framework and will offer suitable guidance on wording and the relevant policy where professionally possible.

9. Where the Committee reaches a decision contrary to the Officers' professional advice which results in a Local Public Inquiry or Informal Hearing, for practical and professional reasons, Officers may not be able to present the Council's case because their views on the planning application are on public record. To give the Council's decision the best prospects of success it will normally be appropriate to appoint external planning consultants to present the Council's case at the inquiry/hearing. This inevitably has cost implications, which may be substantial irrespective of the eventual outcome of the appeal.