

PART 5

Guidance for Members and Officers on Planning Matters

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Introduction: The Need for Guidance

This Guidance has been written to inform all parties of Lewes District Council's standards in its operation of the town and country planning system within the district.

This Guidance applies to all Lewes District councillors and staff involved in operating the planning system. It is not restricted to the Council's planning officers and members of the Planning Applications Committee, but applies also to Cabinet and meetings of the full Council when taking planning decisions.

The successful operation of the planning system in Lewes District depends upon the Council always acting in a way which is clearly seen to be fair and impartial. This relies upon a shared understanding of the respective roles of councillors and officers, and upon trust between them. The following quotation from the Local Government Association serves to illustrate the point:-

"The role of an elected member on a planning committee involves a balance between 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. It is this dual role which, can give rise to great tensions". (Source: Probity in Planning, LGA, 1997).

The Local Government Association has advised local planning authorities, such as Lewes District Council, to set out clearly their practices and procedures on handling planning matters in local Guidance.

Councillors and staff are requested to read this Guidance thoroughly and to put it into practice consistently. Failure to do so without good reason could be taken into account in investigating allegations of impropriety or maladministration.

It is intended to review this Guidance regularly to keep it up-to-date and relevant. If there are any points which are unclear or which need review, please contact the Director of Planning and Environmental Services or the Corporate Head - Legal and Democratic Services (who acts as the Council's Monitoring Officer) as soon as possible. They will be pleased to help you.

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1 General Role and Conduct of Councillors and Officers

- 1.1 Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on committees and to models based on forms of executives or elected mayors. Officers advise councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual councillors, and it follows that instructions may only be given to officers through a decision of the Council or its executive or a committee. Any other system which develops is open to question. A successful relationship between councillors and officers can only be based upon mutual trust and understanding of each others positions. This relationship and the trust which underpins it must never be abused or compromised.
- 1.2 Both councillors and officers are guided by codes of conduct. The Council's Code of Conduct for Members supplemented by guidance from the Standards Board, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct. In addition, staff who are Chartered Town Planners are guided by the Royal Town Planning Institute's Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. In addition to these codes, a council's rules of procedure set down rules which govern the conduct of council business.
- 1.3 The Council's Code of Conduct for Members sets out the requirements of councillors and co-opted members 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 councillors, staff and the public, which will impact on the way in which councillors participate in the planning process. Of particular relevance to councillors serving on planning committees is the requirement:
- "You 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) of the Council's Code of Conduct for Members).
- 1.4 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.

- 1.5 Councillors should also be very cautious about accepting gifts and hospitality. The Council's Code of Conduct 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 be entered in the Register of Members' Interests, which is open to inspection by the public and published on the Council's website.
- 1.6 Similarly, during the course of carrying out their duties, officers 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 is reviewed regularly by the Council's monitoring officer. The requirement to register any such hospitality is likely to be a feature of the new proposed statutory code of conduct for employees.
- 1.7 Employees must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as membership of political parties and serving on another council. The Council carefully considers which of its officers are subject to such restrictions and reviews this regularly.
- 1.8 A requirement for staff to act impartially is likely to be a requirement of the proposed new code of conduct for employees. The need for impartiality is particularly crucial in highly contentious matters. The requirement that councillors act impartially is clearly set out in the Council's Code of Conduct for Members. Paragraph 3 of the Code of Conduct requires councillors to:
- treat others with respect; and
 - not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- 1.9 Finally, planning legislation and guidance can be complex. Both the Nolan Committee's third report and the RTPi study into the role of councillors recommended that councillors should receive training. A Planning Handbook has been prepared for councillors as a basic guide to the planning system. This will be supplemented by various training events on different aspects of the system from time-to-time.

2 Registration and Declaration of Interests

Registration of Interests

Councillors

- 2.1 The Local Government Act 2000 and the Code of Conduct for Members impose requirements on councillors and co-opted members. (All references

to councillors in the context of the Code of Conduct should be read as including co-opted members.) They impose rules as to the registration and declaration of their interests, and regulate councillors' 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 is regularly issued by the Standards Board and can be viewed on the Board's website at www.standardsboard.gov.uk and advice may be sought from the Council's monitoring officer. Ultimate responsibility for fulfilling the requirements rests individually with each councillor.

- 2.2 A Register of Members' Interests is maintained by the Council's monitoring officer, and is available for public inspection. A councillor must provide the monitoring officer with written details of relevant interests within 28 days of adoption of the Council's Code of Conduct, or within 28 days of his election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes.

Declaration of Interests

- 2.3 A Councillor has a personal interest in the Council's business:
- 1 if the matter relates to an interest in respect of which the councillor has given notice in the statutory Register of Members' Interests; or
 - 2 if a decision upon it might reasonably be regarded as affecting the wellbeing or finances of the councillor or of his/her family, close associates, employer or of certain bodies to which the councillor belongs, to a greater extent than it will affect the majority of council tax payers or inhabitants in the councillor's ward.
- 2.4 Where a councillor considers he/she has such a personal interest in a matter, he/she must always declare it, but it does not then necessarily follow that the personal interest debar the member from participation in the discussion.
- 2.5 The councillor then needs to consider whether the personal interest is a prejudicial one. The Code of Conduct provides that a personal interest becomes a prejudicial one where it affects the finances of the councillor or those of his/her family, close associates, employer or those of certain bodies to which the councillor belongs AND

“... 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”.

If a councillor has such an interest, he/she should not participate in a discussion on the matter, must withdraw from the room and must not seek improperly to influence a decision on the matter. However, if the matter is being considered at a public meeting where members of the public have a

right to speak, the councillor may similarly speak, but must withdraw from the meeting immediately after doing so.

- 2.6 In relation to a councillor's involvement in planning issues, the two stage test of personal and prejudicial interests will require a councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the financial position of the councillor, his family, close associates, employer, or the financial position of certain bodies to which he/she belongs.
- 2.7 The rules relating to personal and prejudicial interests are complicated. For detailed advice councillors should refer to the guidance issued by the Standards Board (May 2007), or seek advice from the Monitoring Officer.

Bias

- 2.8 In addition to observing the rules on interests, councillors must observe the law relating to bias. If a councillor, in advance of any decision being reached on a planning application, has made it clear that they have firmly made up their mind about whether it should be granted or refused and cannot be swayed then they cannot demonstrate that in participating in the planning decision they weighed up all the relevant facts and arguments.
- 2.9 In these circumstances the councillor's participation in the planning decision might lay the Council open to legal challenge. If a councillor has shown them self to have already reached a firm conclusion prior to the time when the planning decision is taken the court will adjudge them as biased. Any councillor in this position should not participate in the planning committee decision. For more advice on bias councillors should refer to guidance issued by the Standards Board (September 2004) entitled "lobby groups, dual-hatted members and the Code of Conduct" (page 9) – www.standardsboard.gov.uk

Officers

- 2.10 Where Council Officers have a financial, or other interest, in a planning application or other planning matter, they should declare their interests in writing to the Director of Planning & Environmental Services immediately. This written record will then be retained on the relevant file.
- 2.11 An officer declaring such as interest should subsequently play no part in processing an application, or considering the planning matter, nor in any decision making on it.
- 2.12 In determining whether an interest should be declared, officers should use the same tests as councillors (see above). Examples of interests which

should be declared are relatives or friends submitting applications; belonging to a church, club or other social group which has submitted an application; or living in proximity to a site which is at issue.

3 Development Applications Submitted by Councillors, Officers and the Council

- 3.1 Serving councillors and officers should never act as agents for individuals (including a company, group or body) pursuing a planning matter. This includes not only pursuing development proposals, but also works under related legislation such as works to protected trees. If councillors or officers submit their own proposals to the Council, they should take no part in processing the application, nor take part in the decision making. The Council's monitoring officer should be informed of all such proposals as soon as they are submitted.
- 3.2 The consideration of a proposal from a councillor in such circumstances would be considered as a prejudicial interest under the Council's Code of Conduct and as such, the councillor would be required to withdraw from any consideration of the matter. The Code also provides that the councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a councillor should have any less rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a committee.
- 3.3 Proposals submitted by councillors and officers should be reported to the Planning Applications Committee as written agenda items and not dealt with by officers under delegated powers. As part of the committee report, the officer should confirm that, as far as he/she is aware, the application has been processed normally.
- 3.4 Proposals for the Council's own development (or development involving the Council and another party) should be treated in the same way as those by private developers and in accordance with the Town and Country General Regulations 1992 and guidance given in Circular 19/92. This requirement also applies to private applications in respect of Council owned land (such as a private application prior to a Council land sale being agreed or negotiated). The planning decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating all such applications on an equal footing with all other applications, as well as actually doing so.

4 Lobbying of and by Councillors, and Attendance at Public Meetings by Officers and Councillors

- 4.1 When councillors undertake their constituency roles, it is inevitable that they will be subject to lobbying by interested parties and the public on planning matters and specific planning applications. When councillors are lobbied,

they need to exercise great care to maintain the Council's, and their own integrity, and to uphold the public perception of the town and country planning process.

- 4.2 Councillors who find themselves being lobbied (either in person, over the phone, or by post, fax or e-mail) should take active steps to explain that, whilst they can listen to what is said, it would prejudice their impartiality if they expressed a conclusive point of view or any fixed intention to vote one way or another.
- 4.3 Councillors involved in the determination of planning matters should listen to all points of view about planning proposals and are advised to refer persons who require planning or procedural advice to planning officers. Councillors should not indicate (or give the impression of) conclusive support or opposition to a proposal, or declare their voting intention before the meeting at which a decision is to be taken. Nor should Councillors advise (or appear to advise) other parties that permission will be granted or refused for a particular development or that land will, or will not, be allocated for development in a Local Plan. To do so without all relevant information and views, would be unfair, prejudicial and may amount to maladministration.
- 4.4 Taking account of the need to make decisions impartially, Councillors must weigh up all the material considerations reported at each Committee meeting. They should not be biased (or appear to be biased) towards any person, company, group or locality. Whilst it is natural for councillors to be predisposed towards either a grant or refusal of any particular application, if they reach a final conclusion on the matter (or appear to do so) prior to the committee meeting then they will have wrongly predetermined the application and should not participate in the committee debate or vote.
- 4.5 By law, the District Council has to seek comments from the Town/Parish Councils on planning applications and other planning matters so that their comments can be taken into account when the District Council makes planning decisions. Some District Councillors are also Town/Parish Councillors and they take part in Town/Parish Council debates about planning applications and other planning matters. Merely taking part in Town/Parish Council debates on planning matters does not automatically debar District Councillors from decision-taking at the District Council. However, Town/Parish Councils do not have professional planning advice or complete information on the application and other planning matters when they make their recommendations to the District Council. Therefore, District Councillors who are also Town/Parish Councillors should be careful not to state that they have reached a conclusive decision when they consider planning issues at their Town/Parish Council meeting. Nor should they declare to the Town/Parish Council what their future voting intention will be when the matter is considered at the District Council. Statements of voting intentions by District Councillors at Town/Parish Council meetings could debar District Councillors from speaking or voting at the District Council meetings dealing with the planning applications or other matters.

- 4.6 Where the Monitoring Officer believes that a councillor has put the Council's decision at risk by expressing a conclusive view on a planning matter or application before its determination by the Committee, the Monitoring Officer will advise him/her that it would be inappropriate for that member to take part in the debate, or vote on the application.
- 4.7 Whilst councillors involved in making decisions on planning applications will begin to form a view as more information and options become available, a decision can only be taken at the Planning Applications Committee and Council when all available information is to hand and has been considered. The same considerations will apply to planning policy matters referred to Cabinet.
- 4.8 Any papers (including letters, photographs, drawings, petitions etc) passed to councillors by applicants or objectors prior to a committee meeting should be notified to officers and reported to the Committee. No previously unnotified papers are to be circulated at meetings where planning decisions are taken.
- 4.9 Individual councillors should reach their own conclusions on an application or other planning matter rather than follow the lead of another councillor. In this regard, any political group meetings prior to Committee meetings should not be used to decide how councillors should vote. The view of the Ombudsman is that use of political whips at group meetings in this way is contrary to the National Code and could amount to maladministration. Decisions can only be taken after full consideration of the officers' report and information and discussion at the Committee.
- 4.10 A Planning Applications Committee member 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 councillor responds to lobbying by deciding to go public in support of a particular outcome - or even campaign actively for it - it will be very difficult for that councillor to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented at Committee. The proper course of action for such a councillor would be to make an open declaration and not to vote. Accordingly, a councillor should avoid organising support for or against a planning application if he/she intends to participate in its determination at Committee. However, it should be possible for a councillor to say that they will make the views of the public known at the Committee whilst themselves waiting until the Planning Applications Committee and hearing all the evidence before making a final decision upon how to vote.
- 4.11 Councillors should not lobby other councillors on proposals in a way that could lead to their failing to make an impartial judgement on the planning merits of these cases when making decisions at Council Committees. Nor should councillors put pressure on officers for a particular recommendation.

- 4.12 Officers who are wholly or partly involved in the processing or determination of planning matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications unless their attendance has been agreed by their Director. To do so could lead to allegations of bias to a particular point of view. If put in such a position, officers should only provide factual information (on matters such as content of an application, policy considerations, consultation arrangements, committee procedures) and give no view on the merits or otherwise of the proposal.
- 4.13 When attending public meetings, councillors should take great care to maintain their impartial role, listen to all the points of view expressed by the speakers and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.
- 4.14 If Members consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer, who will in turn advise the appropriate officer (usually the Director of Planning and Environmental Services).
[Further advice on lobbying can be found in the Standards Board's guidance entitled "Lobby groups, dual-hatted members and the Code of Conduct" (September 2004) – www.standardsboard.gov.uk]

5 Pre-Application Discussions

- 5.1 It is generally recognised that discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties. Such discussions are encouraged by both the Audit Commission and the National Planning Forum. Discussions can take place for a variety of reasons, for example to establish whether an application can be improved in design, or to overcome planning objections or to meet relevant neighbour concerns. Such discussions will normally take place at District Council offices.
- 5.2 To ensure professional advice and maintain impartiality, it is recommended that Councillors do not take part in pre-application discussions about the planning merits of any planning proposal. At the least, planning officers should always be in attendance at any pre-application discussions (and pre-decision discussions) about the planning merits of any planning proposal involving councillors, applicants and their agents. This does not, of course, prevent any councillor discussing matters relating to general planning procedures with applicants or their agents. For example, it is proper for councillors to inform people as to dates and times of meetings, to explain the right-to-speak scheme and the procedure followed at the planning applications committee and to advise them as to those officers they should contact at the Council for advice on any application. Councillors should not, however, express any opinion on the planning merits of any particular planning proposal. It should always be made clear by planning officers at the outset of discussions that they cannot bind the Council to make a

particular decision, and that any views expressed are their provisional professional opinions only.

- 5.3 Advice given by planning officers will aim to be consistent and based upon the Development Plan (Structure and Local Plan) and other material considerations. Senior officers will make every effort to ensure that there are no significant differences of interpretation of planning policies between planning officers.
- 5.4 Planning officers will ensure that their advice, and reports, are impartial. This is because a consequent report must not be seen as advocacy for a particular point of view. A written note should be made of pre-application discussions and important telephone conversations. The involvement of Councillors in such discussions will be noted by officers as a written file record. Where appropriate, a follow-up letter should be sent, particularly when material has been left with the Council by the applicant or agent for comment.
- 5.5 Councillors who also serve on Town and Parish Councils should make clear their separate roles in each Council regarding Lewes District planning policies. The councillor and other interested parties should be clear at all times when the councillors are acting as a Town or Parish Councillor, and when they are acting in their role as a District Councillor.

6 Reports by Officers to Committees

- 6.1 Many planning applications are determined by the Director of Planning and Environmental Services, under powers delegated to him/her by the District Council. About 85% of applications are handled in this way. These are the smaller and less controversial applications.
- 6.2 Where decisions on applications fall to be made by the Planning Applications Committee or Council, they will be the subject of full written reports.
- 6.3 Reports on planning matters aim to be accurate and cover all relevant points. They will begin with a description of the development proposed in the application (including dimensions and areas). They will then refer to the provisions of the Development Plan and all other relevant material planning considerations including a full description of the site, any relevant planning history, and the substance of objections and other views received.
- 6.4 All reports requiring a decision will have a written recommendation. In accordance with Access to Information legislation, oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur. All reports will contain a technical appraisal which clearly justifies the stated recommendation. All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous. If the report's recommendation is contrary to the provisions of

the development plan, the material considerations which justify the departure will be clearly stated.

- 6.5 Any additional information which is material to a planning decision, and which is received after publication of agendas, will be reported to the meeting. Normally, this will be in the form of a supplementary written report (The “late letters” report).

7 The Decision Making Process and Decisions Contrary to Officer Recommendations and/or The Development Plan

- 7.1 The law requires that, where the Development Plan is relevant, planning decisions should be made in accordance with it unless other material considerations indicate otherwise (Section 54A of the Town and Country Planning Act 1990).
- 7.2 Relevant Development Plan, and other material considerations, will be identified in officers’ reports (see paragraph 6.3 above). Material considerations will vary from case to case. In arriving at a decision, it is a matter of judgement for the Planning Applications Committee (or Council) as to the weight to be attached to the various material considerations.
- 7.3 In discussing, and determining a planning application or other planning matter, Councillors should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.
- 7.4 If Councillors wish to determine an application contrary to officer advice, or to impose additional conditions to a permission, an officer should explain the implications of such action. The councillors’ grounds for any contrary determination, or for wishing to impose additional conditions, must be clearly stated at the time the propositions are made and votes taken at the meeting. The personal circumstances of an applicant will rarely provide such grounds.
- 7.5 If a resolution is passed which is contrary to a recommendation of the Director of Planning and Environmental Services (whether for approval or refusal) a Minute of the Committee’s reasons will be made and a copy placed on the application file.
- 7.6 If the report of the Director of Planning and Environmental Services recommends approval of a departure from the Development Plan, the full justification for this recommended departure should be included in the report.
- 7.7 Senior planning officers (and legal officers as necessary) should attend meetings of the Planning Applications Committee (or meetings of Cabinet or Council where planning matters are discussed) to ensure that procedures are properly followed and planning issues properly addressed.

- 7.8 Councillors with a prejudicial interest in a planning matter or application, should withdraw from the room and not participate in the decision making process unless they are covered by one of the exemptions contained in the Council's Code of Conduct. Those councillors who have expressed a conclusive view on an application or other planning matter prior to a meeting, should carefully consider whether their continued involvement in determining the application or other matter would prejudice the integrity of the planning process. Their continued involvement could amount to maladministration as well as giving rise to legal challenge.
- 7.9 It is important that councillors who determine planning applications do so only after having considered all the material planning considerations (refer to paragraphs 4.3, 4.4 and 4.8 above). They must take all relevant matters into account and they must disregard irrelevant considerations. It is important that they are seen to do this. For this reason, it is important that councillors only participate in the debate and vote on a planning application if they have been present throughout the whole of the officers' presentation and the subsequent committee debate. Councillors who arrive at a meeting part-way through consideration of an application or who are absent from the meeting for any part of that consideration may not be aware of all the relevant considerations. In any event, their participation can be seen to be unfair – it could amount to maladministration as well as giving rise to a legal challenge that the decision-making process was flawed.

8 Site Visits by Councillors

The need for committee site visits

- 8.1 It is important for the District Council's Planning Applications Committee to have a clear rationale for undertaking organised site visits in connection with planning applications and that any visits are conducted properly and consistently. Failure to do so can leave the Council open to the accusation that arrangement of site visits is, at best, arbitrary and unfair and, at worst, a covert lobbying device.
- 8.2 The purpose of a site visit is for councillors to gain knowledge of the development proposal, the application site and its surroundings. A decision by the Planning Applications Committee to carry out a site inspection should normally only be taken where:
- (a) the impact of the proposed development is difficult to assess from the plans and any supporting information submitted by the applicant, or additional material provided by officers.
 - or
 - (b) there is good reason why the comments of the applicant or objectors cannot be expressed adequately in writing
 - or
 - (c) the proposal is particularly contentious.

- 8.3 Site visits cause delay and additional costs, and should only be carried out where councillors believe a site visit is necessary.
- 8.4 The District Council's policy, established in 1993 and reaffirmed in 1996 and 1998, is that:
- (a) There will be a strong presumption against site visits for householder applications and other minor applications.
 - (b) Where major schemes are proposed to be approved, and there is an objection from the Town or Parish Council, then a site visit shall be held before the application is determined at the Planning Applications Committee.
 - (c) In other cases, major applications may be subject to site visits at the discretion of the Director of Planning and Environmental Services or the Committee.
- 8.5 Where the Planning Applications Committee decide to arrange an organised site visit, the reasons for the decision should be recorded in the Committee minutes and on the application file.

Procedure on Site

- 8.6 A detailed explanation of the proposals, and a summary of the officers' report and recommendations, will be made by the planning officer. Councillors will then be given the opportunity to ask questions and to view the site and surroundings from all relevant vantage points.
- 8.7 Site visits will normally involve councillors and officers only, except for any consultee whose attendance has been specifically requested by the Planning Applications Committee (eg the County Highway Authority or an Environmental Health Officer) to assist their understanding of the proposals.
- 8.8 Applicants or objectors will not be invited to attend site visits. Where, nevertheless, they are in attendance, they will not be allowed to make verbal or written representations or to otherwise lobby councillors. Councillors should keep together during site visits and not allow themselves to be addressed separately by applicants or objectors.
- 8.9 No decisions are made at site visits. The planning officer will prepare a written note of the key planning issues and information obtained from the site visit, to be reported to the subsequent meeting of the Planning Applications Committee.
- 8.10 The Director of Planning and Environmental Services will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site inspection together with the format and conduct of the inspection, so that applicants/agents and interested parties are aware of it.

Informal Site Visits

- 8.11 There are advantages in councillors making their own individual site visits to gain knowledge of the development proposal, the application site and its surroundings. In doing so, councillors should observe sites from public vantage points (highways, rights of way or public open space) and should not enter onto private land without the owner's permission.
- 8.12 Councillors should always deal with applicants and objectors in a fair and even-handed manner – if a councillor has to view a site from private land then they should take care not to express any opinion on the merits of the planning proposal.
- 8.13 Where application sites are not visible without entering onto private land – for example, rear extensions or country houses in larger plots – officers will make an additional effort to provide appropriate visual information at Committee/Cabinet. Councillors are advised to contact planning officers to arrange a site visit accompanied by an officer if a visit is considered essential to an understanding of the planning issues in a particular case.

9 Review of Planning Decisions

- 9.1 Arrangements will be made for councillors to visit a sample of implemented planning permissions annually, so that a regular review of the quality of planning decisions can be undertaken. This should include examples from a broad range of categories such as major and minor development, permitted departures, upheld appeals etc.
- 9.2 The outcome of this review will be reported to the Environment Review Board and may lead to identification of possible amendments to existing policies or practice.

10 Complaints and Record Keeping

- 10.1 Lewes District Council has a complaints procedure, which can be used by any party to the planning process (applicants, objectors or others) to complain about the way in which a matter has been handled (the complaints procedure is not intended to reopen the planning decision). Copies of a leaflet on the complaints procedure are available on request.
- 10.2 Any complaint about the conduct of a councillor is subject to the procedures set out in the Local Government Act 2000 and to the Code of Conduct. It will be handled by the Monitoring Officer, Standards Committee and/or Standards Board as appropriate.
- 10.3 In order that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by councillors.

- 10.4 The same principles of good record keeping will be observed in relation to all enforcement and Development Plan matters. Monitoring of record keeping will be undertaken regularly by the senior planning staff.
- 10.5 Where a planning application is dealt with under the delegated procedure (see paragraph 6.1 above), a complete record will be kept of the planning considerations taken into account in determining the application.

11 The relationship between the Council's Code of Conduct and this Guidance

- 11.1 This guidance is purely advisory. However, its recommendations are based upon the provisions of the statutory Code of Conduct, the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the Audit Commission, the Commissioners for Local Administration in England and Wales (the Ombudsmen), and the National Planning forum.
- 11.2 Failure to follow the recommendations without good reason could be taken into account in investigations into possible maladministration by the Council and might result in allegations that a member has breached the Council's Code of Conduct, or, in the case of an officer, the statutory employees' code.
- 11.3 Where any breach of this Guidance is considered to constitute councillor misconduct then it is to be referred to the monitoring officer who will advise whether such misconduct amounts to a breach of the Council's Code of Conduct.
- 11.4 Where any breach of this Code is considered to constitute officer misconduct, then it is to be dealt with in accordance with the Council's disciplinary procedure.