

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE EXECUTIVE – 3 SEPTEMBER 2013

SUBMITTED TO THE COUNCIL MEETING – 15 OCTOBER 2013

(To be read in conjunction with the Agenda for the Meeting)

- | | |
|----------------------------------|------------------------|
| * Cllr Robert Knowles (Chairman) | * Cllr Stephen O'Grady |
| * Cllr Mike Band (Vice-Chairman) | * Cllr Julia Potts |
| * Cllr Brian Adams | * Cllr Stefan Reynolds |
| * Cllr Carole King | Cllr Adam Taylor-Smith |
| * Cllr Bryn Morgan | * Cllr Keith Webster |
- * Present

46. MINUTES

The Minutes of the Meeting of the Executive held on 2nd July 2013 were confirmed and signed.

47. DECLARATION OF INTERESTS

Cllr Mike Band declared a non-pecuniary interest in Agenda Item 10 as he was a Parish Councillor for Womersley and Cllr Stephen O'Grady declared a non-pecuniary interest in Agenda Item 11 as a Ward Councillor for Farnham Hale and Heath End. Both remained in the meeting during the respective items.

48. QUESTIONS

The Executive received the following question from Mr Mike Westcott in accordance with Procedure Rule 10:-

"In the Petition which was handed in to Waverley Borough Council last year, the Petitioners asked that:

"A referendum be held for all residents within the existing Rowledge BQ ward together with the additional "Sandrock Triangle" area . . . asking whether there should be a separate parish council for Rowledge".

It is therefore a pleasure to note that this request has effectively been granted in that each registered elector in the Rowledge BQ Ward and the Sandrock Triangle is to be asked by postal ballot whether or not they think that a new and separate Parish Council should be created.

If this ballot is successful, please can this Council confirm that its decision to recommend any new Parish Council to the Local Government Boundary Commission for England will be based on a simple majority response in each area to what is, in effect, a straightforward advisory referendum?"

The Leader gave the following response:-

"The Executive will make a recommendation to Council based on the outcome of the consultation process and it will be for Council to make its decision".

PART I - RECOMMENDATIONS TO THE COUNCIL

49. BUDGET MANAGEMENT REPORT JULY 2013

- 49.1 The Executive received the Budget Management Report which projects the likely outturn position for 2013-14 based on projections to the end of July 2013. It followed on from the Budget Management report to Executive on 2 July 2013 by identifying new items and changes to those reported previously.
- 49.2 The Executive, as part of the consideration of the 2012-13 Budget Outturn report agreed to request an Officers' Action Plan covering a number of key areas of concern identified in that report. The position (at the end of July) for one of those areas, building control, that needs Council approval is noted in paragraph 49.3.
- 49.3 Officers have held meetings to review and update the Business Plan that provides for a break-even position. Staff savings have been made as planned and additionally posts are being held vacant, with no impact on service provision. The projected costs are therefore comfortably within budget and the Head of Planning is projected to meet the vacancy target referred to in paragraph 8 from other staff areas. Income for the first quarter is close to budget with some decline in July. A significant drop in the last quarter was experienced last year and if this pattern is repeated there could be a shortfall in income.
- 49.4 Legislation provides that discounted rates can be applied at the Authority's discretion where it can be demonstrated that reduced costs will be involved in a specific case. However, this is not current practice at Waverley because there is no provision for this within Waverley's schedule of charges. This can put Waverley at a disadvantage in a competitive environment. Therefore, approval for the Head of Planning to vary the charges as appropriate is sought in order to help achieve the volumes of work and income as required within the Business Plan.

The Executive RESOLVED

1. To note the report;
2. that £180,000 of the HRA Capital Programme, earmarked for Sound Insulation, be carried forward into 2014-15 pending the outcome of a pilot installation; and
3. that the works over £5,000, totalling £688,000 as scheduled at (Exempt) Annexe 5 be included in the 2013-14 HRA Capital Programme.

49.5 The Executive accordingly

RECOMMENDS that

1. **the Head of Planning, in consultation with the Deputy Chief Executive, be authorised to negotiate deviation from the published rates for Building Control Fees where reduced costs can be demonstrated on a case-by-case basis, as provided for within legislation.**

[Reason: to provide an indication of the expenditure and income position for the 2013-14 Budget as at 31 July 2013 compared with the budget for the General Fund and the Housing Revenue Account]

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

50. PROPOSED LIST OF BUILDINGS OF TOWNSCAPE, LANDMARK OR LOCAL HISTORIC MERIT IN WONERSH, SHAMLEY GREEN AND BLACKHEATH

- 50.1 The designation as BLM is a recognition that buildings, though not meeting the national criteria for statutory listing, are nevertheless of local historic or architectural interest. This will allow their significance to be taken into account when the Council undertakes pre-application discussions and in the determination of planning applications.
- 50.2 The procedure for identifying and assessing potential BLM was agreed by the Executive in June 2011. The Executive resolved that:-
 - i. the Planning Projects Team support Parish and Town Councils in the identification, recording and consultation/notification process for the new Buildings of Local Merit (BLM); and
 - ii. all new buildings recommended to be placed on the list of BLM be presented through the normal Executive process for adoption by the Council.
- 50.3 Wonersh is the second parish council, following Cranleigh, to request that Waverley Borough Council agrees a list of local buildings to be adopted as BLM. This request is the result of an twenty month project and builds on work already carried out by local residents to identify buildings of local interest.
- 50.4 A working group made up of parish council members and local historians met regularly with Waverley officers. During these meetings discussion took place on the aims of the project, the criteria to be met for a building to be considered one of local merit and the process of identification, consultation and adoption. The project was then advertised to the wider community through the parish newsletter and the parish website. Local residents were invited to contact the working group with nominations and information on buildings they thought should be assessed.

- 50.5 The assessment of potential BLM followed the criteria that were agreed by the Executive in 2011. These identified the characteristics and qualities expected of a candidate building, depending in part on the age of the building and the extent to which it has been altered.
- 50.6 The consultation was carried out by Womersley Parish Council, which sent letters to the owners/occupiers of each suggested building, together with an information sheet, "What BLM status might mean for you" and the list of criteria. The consultation process began on 20th November 2012 and the responses were considered by the working group in March 2013. There were several positive responses and no negative responses. All buildings are in private ownership, except The Pepper Pot which is controlled by the Parish Council.
- 50.7 Once the consultation period ended the preliminary list of 13 buildings was reviewed by Waverley officers. All buildings were found to meet a relevant criterion. This list can be seen at Annexe 1.
- 50.8 Ward Councillors were informed when the project began in September 2011. Once the finalised list was agreed by the working group and Waverley officers, Ward Members were given the opportunity to view the documents and comment on the project. These responses have been positive and supportive of the process.
- 50.9 The project has been carried out successfully by the working group on behalf of the parish council, with the support of Waverley Borough Council officers. A thorough consultation process was undertaken. Officers are satisfied that the buildings proposed merit designation as BLM, in accordance with the agreed assessment criteria.
- 50.10 The Executive accordingly

RECOMMENDS that

- 2. that the list of Buildings of Local Merit in Womersley, Shamley Green and Blackheath, noted at Annexe 1, be adopted.**

[Reason: to consider the recommendation that the list of buildings of Local Merit be adopted]

51. REVISIONS TO THE COUNCILLORS' PLANNING CODE OF GOOD PRACTICE AND MEMBER/OFFICER PROTOCOL

- 51.1 The Executive had considered the revised Planning Code of Good Practice for Councillors and Member/Officer Protocol on 2nd July 2013 but deferred decision on these so that they could be reviewed further.

Revisions have since been made to these documents and attached at Annexe 2 is the revised Planning Code of Good Practice and at Annexe 3 the revised Member/Officer Protocol for Members consideration.

51.2 The Executive accordingly

RECOMMENDS that

3. **the revised Planning Code of Good Practice and Member/Officer Protocol be approved and adopted.**

[Reason: to consider the revised Planning Code of Good Practice and Member/Officer Protocol]

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

Part II – Matters Reported in Detail for the Information of the Council

There were no matters falling within this category.

Part III – Brief Summaries of Other Matters Dealt With

52. EXECUTIVE FORWARD PROGRAMME

RESOLVED that the forward programme of key decisions for Waverley Borough Council be adopted.

53. HEALTH AND SAFETY EXECUTIVE IMPROVEMENT NOTICE FOR MANAGEMENT OF ASBESTOS

RESOLVED that

1. a supplementary estimate of £5,000 be agreed to transfer the asbestos risk register data, to be funded from the Housing Revenue Account working balance; and
2. a further report be submitted to the Executive following a response from the HSE on the actions taken by the Council.

[Reason: to consider and endorse Waverley's response to the Improvement Notice issued by the Health and Safety Executive relating to the Council's arrangements for managing asbestos]

54. IT INFRASTRUCTURE - STORAGE AREA NETWORK REPLACEMENT (SAN)

RESOLVED that

1. the quotation from Q Associates for an IBM Storwize V3700 SAN at the capital cost outlined in Exempt Annexe 1 be agreed; and
2. The cost would be met from the specific 2013/14 capital programme provision of £38,500.

[Reason: to agreed a quotation for a replacement SAN and to make provision for cost in the 2013/14 capital programme]

55. ROWLEDGE GOVERNANCE REVIEW – CALL-IN REPORT BACK FROM THE CORPORATE OVERVIEW AND SCRUTINY COMMITTEE

RESOLVED

1. to note the observations from the Corporate Overview and Scrutiny Committee and to thank Members for their endorsement of the Executive's decision made on 3rd July 2013; and
2. to proceed on the basis of the Executive's original decision that:
 - i. agreement be given to local government electors in the area to which the petition relates, including the village of Rowledge and the area referred to as the Sandrock Triangle, being consulted during the second consultation period; and
 - ii. the method of consultation be by way of questionnaire, as outlined in the Terms of Reference, sent to each local government elector falling within the area to which the petition relates.

[Reason: to consider the observations made by the Corporate Overview and Scrutiny Committee]

56. PARKING SERVICES CONTRACT

[This item contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information)]

RESOLVED to endorse the outcome of the tender exercise and agreed the contractor to be awarded the parking services contract.

[Reason: to present the outcome of the tender exercise for Parking Services and to seek authority to award the contract]

The meeting commenced at 6.45p.m. and concluded at 7p.m.

Chairman

ANNEXE 1

Proposed list of Buildings of Local Merit in Wonersh, Shamley Green and Blackheath

- Little Tangle, Wonersh Common Road, Wonersh GU5 0PW
- Derryswood House, Cranleigh Road, Wonersh GU5 0QZ
- Winterden House, Church Hill, Shamley Green GU5 0UD
- Theobalds House, Blackheath Lane, Blackheath GU4 8RB
- Heath House, Blackheath Lane, Blackheath GU4 8RB
- East Cheshunt, Blackheath Lane, Blackheath GU4 8QT
- Cheshunt, Blackheath Lane, Blackheath GU4 8QT
- Blatchfeld, Littleford Lane, Blackheath GU4 8QY
- Wonersh Village Club, Wonersh Common Road, Wonersh GU5 0PH
- United Reformed Church, Wonersh Common Road, Wonersh GU5 0PH
- The Old Chapel, The Green, Shamley Green GU5 0UH
- The Reading Room, Lawnsmead, Wonersh GU5 0PQ
- The Pepper Pot, The Street, Wonersh

(

(

Councillors' Planning Code of Good Practice

Index

1. Relationship to the Waverley Members' Code of Conduct
2. Development Proposals and interests under the Waverley Code of Conduct for Members
3. Fettering Discretion in the Planning Process
4. Call-in process
5. Contact with applicants, developers and objectors and the Pre-application process
6. Lobbying of Councillors
7. Lobbying by Councillors
8. Site Visits
9. Officers
10. Pre-application discussions
11. Decision Making
12. Training

(July 2013)

INTRODUCTION

The aim of this code of good practice; Is to help Members maintain high standards of conduct and ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way.

The key purpose of Planning: to control development in the public interest, and in accordance with national and local policies unless material considerations indicate otherwise.

Your role as a Member of the Planning Authority: to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process. This includes, where applicable, when they attend as an observer, participant or are part of decision-making meetings of the Council in exercising the functions of the Local Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications and pre-application discussions.

If you have any doubts about the application of this Planning Code of Good Practice to your own circumstances you should preferably seek advice early from the Monitoring Officer well before any meeting takes place.

1. Relationship to the Waverley Members' Code of Conduct

Do apply the rules in Waverley Members' Code of Conduct first when involved with planning issues and discussions. Failure to comply could put you at risk of a complaint being made to the Monitoring Officer.

Do then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Waverley Members' Code of Conduct in relation to planning. If you do not abide by this Code of Good Practice, you may put the Council at risk of a challenge to its decisions.

2. Development Proposals and Interests under the Waverley Code of Conduct for Members

Your interest could relate to a proposal's effect, either adverse or beneficial, on you, your employer's or a friend's or relative's property.

Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. *There are declaration of interest forms available to complete and submit electronically in advance of a meeting or by emailing committees@waverley.gov.uk.*

If you only become aware of an interest during the meeting, you must declare it as soon as you can.

Do then act accordingly. Where your interest is a Disclosable Pecuniary Interest:-

Don't try to represent your Ward views or call-in an application. Get another ward councillor or member of the Council, if appropriate, to do so instead. Under the new Code you can no longer speak if it is a public speaking item and you have a Disclosable Pecuniary Interest.

Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a Disclosable Pecuniary interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.

Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable Pecuniary interest to an appropriate officer, in person or in writing, the Waverley Code of Conduct for Members places greater limitations on you in representing that proposal than would apply to a normal member of the public. In particular, you should have regard to paragraph 4(1) of the Code.

Do notify the **Monitoring Officer** in writing of your interest and note that: in the case of a personal application,

- notification should be made no later than submission of the application;
- any proposed approval will always be reported to the appropriate decision-making Committee for determination and not dealt with by officers under delegated powers; and
- it is advisable that you employ an agent to act on your behalf on the proposal when dealing with officers

Do ensure that when contacting an officer about your own proposals, or those of a person so closely connected to you could be seen as influencing your judgement, you must make clear that you are contacting the officer purely in a private capacity and not in your role as a councillor (e.g. Mr Brown not Councillor Brown)

Do if any doubts about proximity of your own property to an application site, contact the Monitoring Officer for clarification.

3. Fettering Discretion in the Planning Process.

Planning matters must be determined on their own individual merits, against the formal planning policy background. These considerations will be set out in the officers' reports, supplemented at the meeting. Accordingly, Members' should not decide how he/she will vote on a particular matter before it is considered at the meeting, but base their decision on the officer reports, additional information presented to the meeting and the debate.

Predetermination: The Localism Act provision on pre-determination gives greater leeway for a decision-maker to directly, or indirectly, indicate a view on a matter prior to a meeting. The decision-maker must still be seen to have an open mind, but the legislation does give greater scope for councillors to represent the views of residents and vote on certain issues.

Don't fetter your discretion and, therefore, your ability to participate in planning decision-making by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest of lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning committee and before hearing the officer's presentation, and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision could still put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of **bias** or **pre-determination** or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. This would particularly apply to Portfolio Holders in relation to schemes within their Portfolio area. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).

Do also be aware that, whilst the Waverley Code of Conduct for Members provides for a presumption that you may regard yourself as not having a Disclosable Pecuniary interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where -

- *you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of another local or public authority of which you are a member; or a body to which you have been appointed or nominated by the Council as its representative;*

or

- *you are a trustee or company director of the body submitting the proposal and were appointed by the Council*

In such cases you should always disclose a Disclosable Pecuniary Interest as well as Non-Pecuniary Interest and withdraw from the meeting at the appropriate time.

Do consider yourself able to take part in the debate on a proposal when acting on the part of a consultee body (where you are also a member of the Town/Parish Council, for example, or both a District/Borough and County Councillor), provided that:

- the proposal does not substantially affect the well-being or financial standing of the consultee body;
- your views are expressed on the limited information before you only;
- you reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning Committee and you hear all the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Planning Committee; and
- you disclose the Non-Pecuniary Interest regarding your membership or role when the Planning Committee comes to consider the proposals.

Don't speak and vote on a proposal where you appear to have fettered your discretion. You should withdraw.

Do leave the room if there is a risk of an appearance of bias by a member of the public. You can not stay in the room and just not vote.

Do explain that you do not intend to speak or vote and will be leaving the room because if you do participate, you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere. This will be recorded in the minutes.

4. **Call-in Process**

Do ensure that you comply with the rules for asking for an item to be presented to committee – within three weeks following the notification of the Waverley weekly list of planning applications, as a ward councillor (for the ward including all or part of the planning application site) you can request by email to the Head of Planning that an item be referred to a Planning Committee on relevant planning grounds. **Don't** ask for an item to be referred if you have a Disclosable Pecuniary Interest or there is a risk of you being seen as biased.

With Town and Parish Council support in writing, you can also, as a ward councillor, request that an application be placed on the agenda for the next Area Planning Committee.

5. **Contact with Applicants, Developers and Objectors and the Pre-Application process.**

Do refer those who approach you for planning, procedural or technical advice to the officers in the Planning Service.

Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. If a meeting does take place, such as a planning presentation or exhibition, those present at the meeting should be advised from the

start that the discussions will not bind you or the Council to any particular course of action. The meeting should be properly recorded on the application file.

Do otherwise:

ensure that you do not involve yourself in lobbying
and

report to the Head of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

6. Lobbying of Councillors

Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, doing so may lead to the perception that you are unable to act impartially and therefore it may affect your ability to participate in the Committee's decision making. To express an intention to vote one way or another or to express too firm a point of view on a particular matter amounts to the same thing and could lead to legal challenge.

Do remember that your overriding duty is to the whole community of Waverley and not just to the people in your Ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

Do remember the need for consistency in determining planning applications made for any location in the Borough

Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared to the Monitoring Officer on the electronic form as soon as possible and remember to register the gift or hospitality where the gift value is over £50 and the hospitality is over £100.

Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality). The Monitoring Officer will in turn advise the appropriate officers to follow up the matter.

Do copy or pass on any lobbying correspondence you receive to the Head of Planning at the earliest opportunity so that it may be placed on file for consideration by other members or the public.

Do promptly refer to the Head of Planning any offers made to you of planning gain or constraint of development through a proposed s.106 Planning Obligation or otherwise. Do not attempt any informal negotiation or discussion

Do note that, unless you have a Disclosable Pecuniary interest, you will not normally be considered to have fettered your discretion or breached this Planning Code of Good Practice through

- listening to or receiving viewpoints from residents or other interested parties (though all parties should be given equal opportunities for access);
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion as a Ward Member, provided you explain your actions and make it clear that having expressed the opinion or ward view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate at the decision-making meeting.
- Do** remember that anyone who is not present from the start of the consideration of a planning application, or leaves during one being considered, **must not** take part in debate or vote on the application as this could lead to a legal challenge that a member is closed to the merits of the arguments for or against the application and has made a decision without taking all of the considerations into account.

7. Lobbying Of Councillors

Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and placed yourself in a position where you have a perceived bias and have to withdraw. Involvement in such activity before you were elected as a member could also be perceived by the public as a relevant consideration and you need to consider such a possibility before taking part in a planning determination.

Do feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, **but** disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal. Simple membership of such organisations is less likely to give rise to a non-pecuniary interest than if you were actively involved in drafting any representation.

Don't excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

Don't lobby or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political group meetings should never dictate how Members should vote on a planning issue.

8. Site Visits

Do try to request a site visit prior to the Committee taking place in accordance with the site visit protocol.

Do try to attend site visits organised by the Council where possible.

Don't request a site visit unless you feel it is strictly necessary because:

- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- there are significant policy or precedent implications and specific site factors need to be carefully addressed.

Do ensure that any information that you gained from the site visit is reported back to the Committee, so that all Members have the same information.

Do ensure that you treat the site visit only as an opportunity to seek information and to familiarise yourself with the site.

Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

Don't hear representations from any other party but factual information can be sought for clarification.

Do, where you are approached by the applicant or a third party, advise them that they should make representations in writing to the Council and direct them to or inform the officer present.

Don't express opinions or views to anyone.

Don't enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias. This does not mean that you can not simply observe the property or site from the roadside, but should you do so, don't be drawn into any discussion about the proposal with any party.

Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) as this may give the appearance of bias, and undermines the transparency of the decision-making process.

9. Officers

Don't put pressure on officers to put forward particular recommendations. (This does not prevent you from asking questions or submitting views to the Head of Planning which may or may not be incorporated into any committee report.) This could be regarded as a Breach of the Code.

Do involve yourself in pre-application discussions with the case officer but recognise that officers are part of a management structure and Members should only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level - in accordance with the Officer/Member Protocol.

Do recognise and respect the requirement that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Pre-Application discussions

Councillors have an important role to play in pre-application discussions. The Localism Act has given Councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that Councillors might have fettered their discretion, such discussions should take place within clear published guidelines.

Do ensure Officers are present with you in pre-application meetings. If you do speak to applicants do ensure clarity that the discussions will not bind the Council to making a particular decision and you should avoid giving separate advice on the development plan or material considerations without officers in attendance. In any case, a written note should be made of all meetings.

Do note that the Council has other mechanisms to involve you in pre-application discussions such as developer presentations to Committees (e.g. technical briefings and Development Control Consultative Forums) which have the advantage of being held in public for transparency.

11. Decision-Making

Do come to meetings and participate only if you are familiar with the written report on each item.

Do come to meetings with an open mind and demonstrate that you are open-minded.

Do comply with Section 38(6) of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan "unless material considerations indicate otherwise".

Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. Remember that planning law requires determination to be based on planning consideration and not political or Council priorities. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request the further information you seek. If necessary, defer or refuse.

Don't vote or take part in the meeting's discussions on an item unless you have been present to hear the entire debate, including the officer's introduction to the matter.

Do have recorded the reasons for a proposal that the Planning Committee defers any proposal for a site visit.

Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that the resulting decision may have to be justified by evidence at a planning appeal in the event of any challenge.

12. Training

Don't participate in decision-making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.

Do attend any training and other specialised sessions provided, to ensure that members' judgements have been based on proper planning considerations. These will be designed to extend your knowledge of planning law, regulations, procedures, Code of Good Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively. This will be provided as part of the Induction process together with refresher courses.

WAVERLEY BOROUGH COUNCIL
OFFICER/MEMBER PROTOCOL

Developing the way that Waverley officers and members work together for the good of the local community

This document is intended to provide guidance and direction in the way that members and officers work together in carrying out the Council's business.

It seeks to build on the clear benefits of ensuring that, from their different roles, members and officers develop effective and efficient internal working relationships that best serve the collective goal of improving the quality of life in the local community.

Whilst it gives guidance and direction, the document, should not be seen as being prescriptive. Rather it should be regarded as a tool that helps ensure that the Codes of conduct and policies that prescribe activities and behaviours are not compromised or breached.

Those relevant codes and policies are:

- the Waverley Member Code of Conduct
- the Waverley Borough Council Constitution
- the Officer Code of Conduct including the Addendum to the Code on the Use of IT Facilities;
- the Council's 'Dignity and Respect at Work' policy and procedures for dealing with Bullying and Harassment at work
- the Council's 'Disciplinary and Grievance Procedures' including the special arrangements that apply to the Chief Executive, the Section 151 Officer (Director of Finance) and the Monitoring Officer
- the Council's 'Public Interest Disclosure (Whistleblowing)' policy and procedures
- the Council's Equal Opportunities in Employment policy statement

A copy of the Member Code of Conduct and the Constitution is made available to all Members. Copies of all the other documents are issued to employees of the Council. Members who wish to see copies of those documents should ask the Head of Organisational Development.

This guidance will not cover every specific eventuality but the broad principles included in the document set standards for acceptable behaviour that should fit every eventuality.

For the avoidance of doubt, where there is a conflict between the guidance in these Protocols and any of the Codes/Policies defined above, compliance with the latter is obligatory. In cases of doubt, the Monitoring Officer will refer to the Waverley Code of Conduct for Members and give advice in accordance with the standards prescribed.

OFFICER/MEMBER PROTOCOLS

1. General Principles Underlying Member/Officer Relations

Waverley has a long tradition of constructive relationships between Councillors and Officers. These have developed into a strong partnership based on mutual respect and understanding of each others roles.

Both members and officers should aspire to conduct their relations, at all times, on a professional basis.

Relations must be based on mutual trust, respect and courtesy and neither members nor officers should seek to take unfair advantage of their position.

Close personal relationships between members and officers can damage professional relationships and can prove embarrassing to other members and officers. They could also give rise to suspicions and/or the appearance of improper conduct or behaviour. Close personal relationships should, therefore, be avoided.

Officers must, at all times, display political impartiality and members must, at all times, accept the political impartiality of officers.

Members and officers must have mutual respect for confidentiality where that is important to the relationship and where that does not compromise the duty of officers to serve the public (see Section 3). Officers must make that clear before entering into any confidential discussions with members.

Members should understand that officers have a contract of employment with the Council as a corporate body and not, as such, with individual members of the Council or the Executive.

2. Role of Members

In accordance with the Waverley Code of Conduct, the Member/Officer protocol and the Members' Planning Code of Good Practice, and maintaining the highest standards of conduct and ethics, members roles are to:-

- (i) collectively be the ultimate policy-makers and oversee a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into Waverley's decision-making process;
- (iii) deal with individual casework and act if appropriate as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within their ward and represent the ward as a whole;
- (v) contribute to various forums for decision-making;

(vi) be available to represent the Council on other bodies.

(as set out in the Constitution).

3. Role of Officers

- Advising the Council on policy matters and implementing Council decisions
- Taking day-to-day managerial and operational decisions
- Providing support/advice to members on matters of Council business
- Acting within their sphere of responsibility/accountability (see the Scheme of Delegation)
- Ensuring that the Council functions within the legislative framework
- Above all else, officers of the Council have a duty to serve the public in good faith and without fear or favour of anyone.

4. Relationship between the Leader of the Council and Officers

When functioning as the Leader of the Council, the Leader will work in close cooperation with the Chief Executive, Deputy Chief Executive, Strategic Director and Heads of Service in matters related to the corporate direction and functioning of the Council.

In this role, the Leader would not normally deal direct with other members of staff except when dealing with any other specific portfolio responsibilities that the Leader of the Council may hold.

This also applies to the Deputy Leader of the Council when acting in place of the Leader.

5. Relationships between the Leader and Members of the Executive and officers

The Leader works through Portfolio Holders who work with the Chief Executive, Deputy Chief Executive, Strategic Director and Heads of Service in respect of matters within the portfolio holder's brief.

6. Relationship between Chief Executive and Members

Any member may make an appointment to see the Chief Executive.

7. Relationship between Executive, Special Interest Groups (SIGs) and officers

Officers, as necessary, and as determined by the Chief Executive, Deputy Chief Executive and Strategic Director and/or Heads of Service, in consultation with the Chairman of the SIG, advise SIGs who in turn advise the Executive, through

the relevant Portfolio Holder, on matters of policy that have required the establishment of a SIG.

The Chairman of the SIG may request the attendance of specific officers.

8. Relationship between Portfolio Holders and Officers

Portfolio Holders work closely with and discuss and consult, as they see necessary, with the Chief Executive, the Deputy Chief Executive and Strategic Director and/or Heads of Service and specialist officers as agreed by the Head of Service.

9. Relationships between Chairmen and Vice-Chairmen of Overview and Scrutiny Committees and officers

All reports to Overview and Scrutiny Committees will be submitted to the Corporate Management Team prior to the Committee.

Chairmen and Vice-Chairmen of Overview and Scrutiny Committees may seek advice from the Chief Executive, Deputy Chief Executive, Strategic Director (and/or Heads of Service) and any designated support officers.

10. Relationship between Chairman and Members of other Committees and Officers

Chairmen of Regulatory Committees may seek advice from the Chief Executive and/or Directors (and/or Heads of Service).

11. Officer relationships with party groups (Note: Local Government and Housing Act 1989 introduced politically restricted appointments)

Officers will do work on behalf of all political party groups fairly and consistently.

It is critical that officers respect confidentiality between political party groups.

12. Officer relationships with other individuals who are members of Council bodies

This protocol will apply also to lay or co-opted Members of Committees, SIGs, Working Parties etc.

13. Members in their ward role and officers

Members may seek advice from relevant officer(s) on ward matters and, if they wish to do so, may first inform the relevant Head of Service.

Those relevant officer(s) will advise the Chief Executive or their Head of Service as appropriate.

Officers should keep ward Councillors informed of relevant matters affecting their ward.

14. Publicity, Press Releases and other contact with the Media

NOTE: The specific rules governing such activities of members are set out in Section 2 of the Local Government Act 1986 and the Code of Practice on Local Authority Publicity.

Contact with the media on issues related to Council business is handled through the Public Relations Manager who provides support and guidance and training as necessary to members and officers.

Press releases etc. from officers should not relate to the political views of any group of officers or members.

Officers, in communicating with the media, should restrict their comments to matters of fact and should avoid expressing personal opinions on Council policy or political decisions and/or views expressed by members.

No member or officer may be quoted in media/press releases without their specific consent.

For service specific media issues – these will be discussed with the relevant Portfolio Holder.

Wider 'corporate' media issues – these will be discussed with the Leader (or Deputy Leader in absence of the Leader) unless this cannot be achieved by the Press deadline. Where it is not possible, the Public Relations Manager will advise.

Members may issue their own media releases. However, they must not: -

- use Council resources for that purpose where the media issue is to publicise an individual Councillor or the views of a political party; and
- impute or ascribe particular views to officers or otherwise refer to officers without that being agreed with the Chief Executive, Deputy Chief Executive or Strategic Director in advance.

Overview and Scrutiny Committees may authorise Waverley media releases on their work, the content of which is to be jointly agreed by the appropriate Overview and Scrutiny Committee Chairman and Vice-Chairman.

15. Councillor access to documents and information

Members are entitled to have such access to information as they reasonably need to carry out their role as members of the Council. However, Members cannot have access to personal information about residents or members of staff, such as council tax, rent or benefit records, unless they have written consent from the individual.

The legal right of members to have access to information is covered partly by common law but also by different pieces of legislation. Members requiring advice on such rights should contact the Monitoring Officer.

16. Officer attendance/participation at formal meetings of the Council

Executive

Meetings of the Executive will be attended by the Chief Executive, Deputy Chief Executive or Strategic Director and, as necessary, Heads of Service and specialist staff.

Portfolio Holders will normally present reports to the Executive.

The Leader of the Council and/or Portfolio Holders may call on officers in attendance to speak. Officers may ask to speak if factual information is being reported incorrectly, for a point of clarification or if relevant data could be overlooked.

Regulatory Committees

The Chairman of the Committee will require officers, as designated by the relevant Head of Service, to present a report and recommendations on each matter.

Overview and Scrutiny Committees

Meetings of Overview and Scrutiny Committees may be attended by the Chief Executive and relevant departmental Directors and/or Heads of Service as necessary.

The Chairman of the Committee will ask the relevant Director or Head of Service to present the report

Special Interest Groups

These will be attended by the Chief Executive, Deputy Chief Executive or Strategic Director and relevant Heads of Service and other specialist officers as considered necessary by the Head of Service.

The meetings are informal and Members and officers in attendance may both contribute to the discussion as they see necessary. With the consent of the Chairman all Members of the Council may attend SIG's and with the agreement of the Chairman speak.

17. Access to Officers by Members

On any new specific service issue and to ensure consistency, it should only be necessary for members to contact either the Chief Executive, Deputy Chief Executive or Strategic Director or Heads of Service, or in the case of media issues the Public Relations Manager. If members are unsure of who to contact, they should contact Democratic Services.

These officers should recognise that members will have needs for information that are not always predictable and will try to respond quickly (see Section 18 below).

However, to help manage workloads and to help the smooth working of the Council's departments, the following guidelines should, so far as is practicable, be observed.

- An uninvolved/uncomplicated enquiry may be made by telephone.
- Otherwise, members should send their enquiry by e-mail
- If members do not have access to e-mail or if a personal visit is considered more appropriate, an appointment should be made with the relevant officer ideally giving a minimum of 24 hours' notice.
- Where there is a need for immediate action, ideally, the member should telephone the officer to ensure that a meeting on the same day is practicable.
- Portfolio Holders should arrange times for their meetings with their departmental Directors and/or Heads of Service as appropriate, and should not make demands on time which could affect officers' ability to carry out their jobs.
- Both members and officers should aim to keep meetings short and focused.

18. Officers Dealing with Member Enquiries: Response Times

Heads of Service will support their staff in achieving the following broad performance targets in responding to Member's enquiries: -

- within 2 working days - straightforward enquiries
- within 5 working days - more complicated enquiries
- within 15 working days - enquiries involving research

19. Officers Dealing with Member Correspondence

Letters from the Council that create obligations or give instructions on behalf of the Council must always be sent out in the name of an officer.

Officers who are requested to prepare correspondence on behalf of members will work to the guidelines in Section 18.

20. Effective Working Relationships Between Members and Officers

This is best achieved by working together in partnership.

Members should:

- avoid putting officers under undue pressure to the extent that it could be regarded as harassment and/or bullying. Members should be particularly sensitive when dealing with less senior officers in the absence of the relevant senior officer.
- not require officers to do things that are not consistent with Council policy, not within normal budgetary controls and not part of the officer's normal duties.
- avoid criticising officers, particularly at meetings open to the public or in the media;
- avoid actions or words that may appear to others to be attaching blame to an officer(s) particularly when the officer(s) is not present
- avoid words or actions that may serve to undermine the professionalism and integrity of officers.

Officers should:-

- Treat members with courtesy and respect at all times;
- Not use undue influence over a member or put a member(s) under undue pressure
- Avoid words or actions that may undermine respect for members

21. Scheme of Delegation

Members should not challenge, publicly, a decision made in good faith by an officer under the Scheme of Delegation, whether or not that decision requires consultation with nominated members.

Members who require information on why a particular decision has been made may ask the relevant officer to explain the basis on which the decision has been made including the use of any pre-prepared guidelines to help decision-making.

22. Dealing with Breaches of this Protocol

By Members

An officer who feels that they have been treated by a member in a way that is contrary to the principles and ideals set out in this document should follow the steps in the Council's Dignity and Respect at Work policy and procedures. The employee, under those procedures, may follow whatever initial approach they prefer. However, the matter must also be raised with the Chief Executive and the relevant Head of Service.

Members who are in breach of this protocol will be dealt with using, as appropriate, one or more of the approaches set out below:-

Leader of the relevant political group
Monitoring Officer
If necessary, by a meeting of the Standards Panel.

By Officers

A Member who has a complaint that an employee has acted contrary to the principles and ideals set out in this document should raise the matter with the Chief Executive, Deputy Chief Executive or Strategic Director.

Officers who are in breach of this protocol will be dealt with under one or both of the following procedures:-

Dignity and Respect at Work policy and procedures
Disciplinary Procedures.

23. Conclusions

Members and Officers, in following the guidelines in this Protocol, help maintain that the constructive officer/member relations that have existed in Waverley for years.

Having a written Protocol will enable members and officers to build on and improve the Member-Officer partnership by identifying practices and approaches that work best to ensure effective working relationships. The Protocol will be kept under review and amended to reflect identified best practice.

(

()