

CODE OF PLANNING CONDUCT & GUIDANCE 2015

1. Purpose of report

This report seeks approval to adopt an updated Local Code of Planning Conduct and Guidance.

2. Recommendation

That Planning Regulatory Board approves the ‘Local Code of Planning Conduct and Guidance 2015’ for recommendation to the Council.

3. Background

The Council’s current Local Code of Planning Conduct and Guidance was adopted by Full Council in 2004. The Code of Conduct applies to members and officers of the Council and its primary purpose is to ensure that decisions made in respect of planning applications are fair, open and transparent.

It is considered necessary for the Local Code of Planning Conduct and Guidance to be updated to take account of legislative developments and updated practices of the Council’s Planning Regulatory Board. In particular, the Localism Act 2011 introduced provisions which oblige local government members in England to register disclosable pecuniary and other interests, but these provisions are not referenced in the current Local Code of Planning Conduct and Guidance. The Localism Act has also introduced provisions to clarify the circumstances in which members may comment on applications prior to their approval without bringing into question the validity in law of the determination of such applications. It is intended that the Local Code of Planning Conduct and Guidance shall be supplementary to the existing adopted Code of Conduct for Elected Members.

4. Current Position

It is imperative that the way in which members determine planning applications is fair, honest and transparent and it is also essential that members act in accordance with their own statutory duties in order to protect their own position. The Localism Act 2011 abolished the previous Standards Board regime with a nationally prescribed Code of Conduct and the Council has instead adopted its own Code of Conduct for Elected Members (referenced above).

The Planning Local Code of Conduct and Guidance must therefore be updated so as to reflect the present standards required by members and to provide clarification of their own obligations.

The Council has a duty to ensure that planning decisions are determined in accordance with the Council's development plan and national guidance unless material planning considerations indicate otherwise. It is essential that each planning application is considered and determined on its own merits and that decisions are robust and justifiable.

It is vital that the Code is updated so as to provide accurate and updated guidance to members in connection with their duties in respect of the determination of planning applications.

5. Proposal and justification

It is proposed that Planning & Regulatory Board confirms their approval of the Local Code of Planning Conduct and Guidance.

The key changes to the existing Code can be summarised as follows:

- Clarification regarding the provisions introduced by the Localism Act 2011 obliging members to register disclosable pecuniary interests and guidance in respect of the Council's duty to maintain a register of members' interests.
- Guidance regarding the updated rules on predetermination introduced by the Localism Act 2011. The Localism Act 2011 clarified that members shall not be taken to have had a closed mind when making a decision just because (i) they had previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter, and (ii) the matter was relevant to the decision.
- Clarification that members who are not members of the Planning Regulatory Board shall not be allowed to address the Board.
- Updated guidance regarding possible sanctions to both the Council and members in respect of any failure to adhere to the Code.
- Guidance on members' duties under the Member Code of Conduct and the relationship of this Code to the Local Code of Planning Conduct and Guidance 2015. The Council adopted the Member Code of Conduct on 5 July 2012 and an updated version was approved by the Council on 4 June 2015.

If approved by Planning & Regulatory Board, the Code will thereafter be recommended for adoption by Full Council.

6. Implications for local people / service users

The updated Code would provide members of the Planning Regulatory Board with updated guidance with regard to their duties as members and as regards the proper determination of planning applications.

The updated guidance should assist members in determining planning applications robustly and this would duly have the effect of increasing public confidence in respect of the determination of applications within Barnsley.

7. Financial implications

There are no financial implications.

8. Employee implications

There are no employee implications. The updated Code does not impose any greater obligations on employees in terms of their duty to disclose interest in applications which affect them personally than under the existing Code.

9. Compatibility with the European Convention on Human Rights

The proposals in this report are compatible with Convention Rights.

10. List of appendices

Appendix 1 – Local Code of Planning Conduct and Guidance 2015.

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