

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 06 March 2025</b>
Relevant Scrutiny Committee:	Environment and Regeneration
Report Title:	Audit Wales Recommendations for Governance of the Planning Service- Planning Protocol, Planning Committee Terms of Reference, and Amended Scheme of Delegation
Purpose of Report:	To report to Cabinet a proposed updated Planning Protocol, Planning Committee Terms of Reference and amended Scheme of Delegation, and to seek approval to report to Council, via Governance and Audit Scrutiny Committee. A response to Audit Wales recommendations.
Report Owner:	Cabinet Member for Community Engagement, Equalities and Regulatory Services
Responsible Officer:	Marcus Goldsworthy – Director of Place
Elected Member and Officer Consultation:	<p>Head of Sustainable Development</p> <p>Operational Manager for Planning and Building Control</p> <p>Principal Planning Officers</p> <p>Head of Finance</p> <p>Principal lawyer and Head of Legal and Democratic Services</p> <p>Democratic Services Officers</p> <p>E&amp;R Scrutiny</p> <p>G&amp;AC Scrutiny</p> <p>Equalities Consultative Forum</p>
Policy Framework:	This is a matter for Executive consideration prior to final approval by Full Council.

Executive Summary:

- In March 2023 Audit Wales advised the Council that their local audit work for 2023-2024 would be regarding Planning. In July 2023 Audit Wales (AW) forwarded their project brief, which explained that the review would be focussed on the Planning Service's Governance Arrangements.
- The review was subsequently undertaken by AW in July/August 2023 to gain further assurance that there are appropriate arrangements around governance of the Planning service, and that there is value for money in its use of resources
- The report at Appendix A outlines the key findings of this work. The review findings were generally positive and the key finding was: 'We found that the Planning Service has a positive working culture and effectively supports the Council to deliver its well-being objectives but there are some gaps in governance arrangements which need addressing'.
- The following recommendations were made:
- R1: The Council should strengthen its Planning Service's governance arrangements by:
  - agreeing a Terms of Reference for the Council's Planning Committee to clearly state its purpose, role and responsibilities. The Council should regularly review this Terms of Reference;
  - developing a plain language Planning Protocol and include it in the constitution and on the Planning Service Council webpage so that it is easily accessible to members and the public. The Council should ensure members and officers understand and act in accordance with the Planning Protocol;
  - undertaking its planned review of the Scheme of Delegation to ensure the Planning Committee is focussed on the most strategically important planning applications; and
  - ensuring planning applications submitted by, or on behalf of, the officers in the Planning service and supporting services are considered by the Planning Committee and not under officer delegated powers to safeguard against any perceived conflicts of interest and to promote independence and transparency.
- R2: The Council's Planning Service should clearly present its performance measures and targets in its service plan.
- The AW review was initially reported to Planning Committee, and then to Environment and Regeneration Scrutiny, Governance and Audit Committee and the Equalities Consultative Forum, with recommendations that the Council should adopt a Planning Protocol and Terms of Reference, amend the Scheme of Delegation (to include explicit reference to excluding Planning/related Officers' own applications from delegated powers), and provide more explicit performance measurements in future Service Plans (subject to subsequent reporting to Cabinet and Full Council).
- The recommendations referenced above were agreed, and accordingly, this report has been prepared to seek Cabinet oversight and endorsement of the documents attached at Appendix B (Planning Protocol), C (Planning Committee Terms of Reference), and D (amendments to the Scheme of Delegation).

- In Summary, the Planning Protocol (to be included in the Council's Constitution) sets standards of probity and conduct which the residents, and planning agents operating in the Vale, can expect of its members and Council officers. This provides clear guidance to members, officers and the public on Council procedures for dealing with planning matters, and covers the points explicitly listed in the AW recommendation/report.
- The Terms of Reference sets out details of Planning Committee Meetings and Membership, and the Function and Role of the Committee.
- The proposed Scheme of Delegation amendments include inverting how it is structured. I.e. whereas currently it lists all matters that can be dealt with under Delegated Powers, it is recommended that it should be changed to list all matters that should be considered by Committee. The document also proposes changes to the scope of Enforcement matters considered by Committee, and explicitly requires all Planning (and related) officer applications to be dealt with by Committee.

## **Recommendations:**

1. That Cabinet consider and endorse the attached Planning Protocol, Terms of Reference and Amendments to the Scheme of Delegation (Appendices B, C and D).
2. That this report and the appendices be referred to Governance and Audit Committee for their consideration, prior to being referred to Full Council for approval of the three appended documents.
3. In the event that Governance and Audit Committee propose any changes to the appended documents, these changes be referred back to Cabinet for consideration, prior to reporting to Full Council.
4. That the Head of Sustainable Development be authorised to agree the final format of and any necessary minor typographical changes prior to its publication/incorporation into the Constitution.
5. That Cabinet endorse the recommendation for performance measures and targets to be included in future service/directorate plans.

## **Reasons for Recommendations**

1. To provide for scrutiny of the findings of Audit Wales's review of the Planning Service's governance arrangements.
2. To provide for scrutiny of the findings of Audit Wales's review of the Planning Service's governance arrangements.
3. To provide for scrutiny of the findings of Audit Wales's review of the Planning Service's governance arrangements and to ensure that any issues raised by Governance and Audit Scrutiny Committee are given due consideration by Cabinet.
4. To ensure the timely progression of the response to the AW recommendations.
5. To ensure the Council responds appropriately and implements areas of improvement as identified by Audit Wales, to strengthen governance of the Planning service.

## **1. Background**

- 1.1 In March 2023, Audit Wales (AW) advised the Council that their local audit work for 2023-2034 would be regarding Planning. In July 2023 AW forwarded their project brief, which explained that the review would be focussed on the Planning Service's Governance Arrangements.
- 1.2 The review was subsequently undertaken by Audit Wales in July/August 2023 to gain further assurance that there are appropriate arrangements around governance of the Planning service, and that there is value for money in its use of resources. This involved desk based work reviewing existing processes and protocols, and a series of interviews with Officers and Members

- 1.3** The review findings were generally positive and the key finding was: ‘We found that the Planning Service has a positive working culture and effectively supports the Council to deliver its well-being objectives but there are some gaps in governance arrangements which need addressing’.
- 1.4** The report made two key recommendations- for the governance of the Planning service to be strengthened with a new Planning Protocol, Committee Terms of Reference and amended Scheme of Delegation, and for performance measures and targets to be included in future service/directorate plans.

## **2. Key Issues for Consideration**

- 2.1** Appended at B, C and D are the proposed draft Planning Protocol, Terms of Reference and amendments to the Scheme of Delegation, in accordance with the AW recommendations.
- 2.2** Terms of reference: The attached, at Appendix C, provides the key facts/details relating to Committee membership and meetings, and the role and function of the Planning Committee. The Terms explain the role in respect of the planning matters to be considered, the contribution of the Committee/its decisions to the Council’s Corporate Strategy and Priorities, and compliance with wider legal and statutory duties.
- 2.3** This will provide clarity and focus to the activity of this integral Council committee and will contribute to a greater public understanding of its composition, objectives, and role in decision making.
- 2.4** Planning Protocol: The Protocol is designed to set standards of probity and conduct which the residents, and planning agents operating in the Vale, can expect of its Members and Council Officers. It should safeguard the Planning Service’s Officers and Members by having clear arrangements for how they engage directly with planning agents and applicants. The Council’s previous Planning Protocol is now considered to be outdated, and consequently an amended protocol has been written (appended at B) to ensure it is fit for purpose in the context of current legislation and the modern planning system.
- 2.5** The AW report produced a specific list of items that should be covered in a planning protocol, and this has largely formed the basis for the draft protocol attached. The protocol has also been constructed in accordance with guidance from the Planning Advisory Service and the Welsh Government Development Management Manual.
- 2.6** The protocol sets out the roles of different stakeholders in the planning process in the Vale of Glamorgan and provides comprehensive guidance on how those stakeholders should/can participate at the various stages of the process. This will ensure greater clarity to officers, members, and members of the public, and will engender a greater level of confidence and trust in the system. Critically, the protocol will ensure a clear basis for consistent processes and decision making,

which will enable the Council to achieve and demonstrate fairness and equity to all stakeholders.

- 2.7** The protocol provides clear and explicit advice on procedural planning Committee matters, including how members of the public can interact with it, material considerations, member conduct, and what to do in the event of 'Committee overturns', to ensure robust and legally sound decision making.
- 2.8** The protocol emphasises the importance of the Equality Act 2010, the Public Sector Equality Duty, the Council's Equality Policy and Strategic Equality Plan, and how their principles underpin the delivery of the Planning service. It is considered that the protocol will strengthen understanding of these duties and their relevance to planning decisions.
- 2.9** Scheme of Delegation (SoD): The proposed draft (Appendix D) inverts how the SoD is structured. I.e. whereas currently it lists all matters that can be dealt with under Delegated Powers, it is recommended that it should be changed, to list all matters that should be considered by Committee. It is considered that this will give greater clarity to what is a Planning Committee matter, will ensure that Committee's time is spent on the most important and strategic items, and will ensure an efficient and cost effective Committee service. This will in turn assist in the delivery of a high quality and timely Planning service that meets the needs of the service users.
- 2.10** While the draft proposes inverting the 'emphasis' of the SoD, the matters that would be considered by Committee remain substantially the same. The existing SoD may have potentially resulted in some major developments being considered under delegated powers, however, it is recommended under the new SoD that all major developments be considered by Committee.
- 2.11** A further proposed change is that under the amended Scheme of Delegation, Team Leaders would be given delegation to sign off householder planning applications where there are no objections, as opposed to all householder matters being authorised by the Operational Manager or Head of Service. It is considered that this will assist the speed and quality of the service.
- 2.12** Critically, the existing call-in procedure is proposed to be retained. It has been clear from the various stages of engagement that this remains of utmost importance to Members, and this remains a central thread of a transparent, accountable and effective planning service.
- 2.13** As per AW's recommendations, the draft proposes that applications submitted by **any** Officer involved in the planning process or a Councillor of the Vale of Glamorgan Council must be determined by Planning Committee.
- 2.14** The draft SoD proposes amendments to the existing scope of Committee enforcement powers. The proposed amendments are founded upon the same principles as those relating to planning applications. i.e. to ensure a high quality

and timely service, and to ensure Committee are focussed on the matters of strategic importance and highest public interest.

- 2.15** Presently, all Enforcement Notices must be authorised by Planning Committee (save for urgent matters), whereas delegation exists for other notices including Breach of Condition Notices, Planning Contravention Notices, Section 215 Notices (untidy land), etc. This results in a relatively significant number of recommendations to Planning Committee, including for householder and other minor forms of development.
- 2.16** Under the terms of the amended SoD proposed, Committee authorisation would be required for Enforcement Notices relating to Major development, and where the proposed enforcement action would result in the cessation of use of a residentially occupied building/unit. It is considered that this represents the appropriate balance of Enforcement work, which prioritises Committee's time for the largest and most publicly important items, as well as cases which bring the most significant potential implications for someone's wellbeing. It is considered this balance will aid the efficiency of the Council's Planning Committee.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** Governance of the service underpins how Planning contributes to delivery of the Council's Corporate Plan and its Well-being Outcomes. Our Corporate Plan has been structured around the Well-being of Future Generations (Wales) Act 2015, through the development of four Well-being Outcomes and eight Well-being Objectives. By aligning our Well-being Outcomes in the Corporate Plan with the Well-being Goals of the Act, this will enable us to better evidence our contribution to the Goals.
- 3.2** External Regulation is an important vehicle for driving continuous improvement across our services. Progressing the improvement areas identified by our regulators not only enables us to demonstrate our commitment to continuous service improvement, but also contributes to further strengthening our impact on the national well-being goals through the achievement of our well-being objectives.
- 3.3** The response to the review findings has been developed with the five ways of working in mind. The focus is on ensuring that there is a clear structure in place to ensure confidence and trust in the Planning service, which itself contributes to improving the economic, social, environmental and cultural wellbeing of the Vale of Glamorgan, and Wales beyond. As noted in the AW brief, the Planning Service must reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land, to ensure the sustainable management of natural resources and protecting, promoting, conserving and enhancing the built and historic environment.

- 3.4** Planning involves decision making with long terms impacts and it is critical that sound governance underpins those decisions. This will ensure that negative impacts are prevented- whether in respect of buildings, use of land, the environment, or stakeholder’s interactions with and faith in the service. The proposed recommendations require an integrated approach to the Planning service and would ensure that different elements of the service are not operating in silos in respect of governance. The recommendations also seek to integrate the views and inputs of a number of stakeholders. The proposed reporting process has involved collaboration and input from a number of Committees/Members, and there was significant collaboration and involvement of Members and Officers in the completion of the initial review. The proposed appendices will assist future collaboration between stakeholders as a consequence of roles and responsibilities being clear. Protecting faith and trust in the service will encourage stakeholders to become involved and to engage in Planning in the Vale of Glamorgan.

#### **4. Climate Change and Nature Implications**

- 4.1** There are no implications directly arising from this report albeit, improved governance of the Planning service will potentially have a positive impact on its delivery. The delivery of this service involves an assessment of nature and climate implications on a continual basis, particularly in light of recent changes to Planning Policy Wales. Re-appraising and improving on the governance arrangements underpinning the service generally will have potential positive impacts on the efficiencies of all work streams, to the benefit of the climate and nature objectives that also underpin the Planning service.

#### **5. Resources and Legal Considerations**

##### **Financial**

- 5.1** There are no additional budgetary implications directly arising from this report, although failure to progress the improvement areas outlined in the report could have a negative impact on any future external regulatory assessments of the Council which could in turn put funding opportunities at risk.
- 5.2** The proposed changes to the Scheme of Delegation will ensure a strategically focussed Planning Committee, which is efficient in terms of the expenditure associated with meetings.

##### **Employment**

- 5.3** There are no direct employment implications associated with this report.



### **Legal (Including Equalities)**

- 5.4** The statutory duties of the Auditor General are contained within the Local Government & Elections (Wales) Act 2021, the Well-being of Future Generations (Wales) Act 2015, the Public Audit (Wales) Act 2004, the Local Government Act 1999 and the Code of Audit Practice.
- 5.5** Under the LG&E Act, a special inspection of the Council may be undertaken if the Auditor General for Wales considers that the council is not, or may not be meeting performance requirements. This inspection is to assess the extent to which the Council is meeting the performance requirements, in exercising its functions effectively; using its resources economically, efficiently and effectively; and in ensuring its governance is effective.
- 5.6** Additional governance to the Planning Service will have a positive impact in respect of security of Planning decisions and minimising likely of successful legal challenge.
- 5.7** The attached protocol is explicit in respect of equalities and other statutory duties, in the delivery of the Planning service. The protocol will strengthen understanding of these duties and their relevance to planning decisions.

### **6.0 Background Papers**

**None.**

# Review of the Planning Service's Governance arrangements – Vale of Glamorgan Council

Audit year: 2023-24

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# Report summary

## Report summary and recommendations

### Exhibit 1: report summary and recommendations

The exhibit below summarises the reason we undertook this audit, our key findings and recommendations for the Council.

#### Why governance arrangements supporting a Planning Service is important

- 1 The planning service and the planning policy team are key services for a Council. The planning service manages the development and use of land in the public interest. It contributes to improving the economic, social, environmental, and cultural wellbeing of Wales.
- 2 The Planning Service must reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land. Thereby, ensuring the sustainable management of natural resources and protecting, promoting, conserving and enhancing the built and historic environment. The governance arrangements to support the planning service are crucial to this.

#### The focus of our audit

- 3 The focus of this review was on the planning service's governance arrangements which included the planning policy team. As part of this, we looked at how the planning service supports the Council in the delivery of its overall objectives, its role and responsibilities, and how the planning service reviews and monitors its governance arrangements.
- 4 We did not review the performance of the planning service.
- 5 We did not look at the decisions of individual planning applications.

#### Our key findings

- 6 We found that the Planning Service has a positive working culture and effectively supports the Council deliver its well-being objectives but there are some gaps in governance arrangements which need addressing.

#### Our recommendations for the Council

##### Governance arrangements

- R1 - The Council should strengthen its Planning Service's governance arrangements by:

- developing a plain language Planning Protocol and include it in the constitution and on the Planning Service Council webpage so that it is easily accessible to members and the public. The Council should ensure members and officers understand and act in accordance with the Planning Protocol;
- agreeing a Terms of Reference for the Council's Planning Committee to clearly state its purpose, role and responsibilities. The Council should regularly review this Terms of Reference;
- undertaking its planned review of the Scheme of Delegation to ensure the Planning Committee is focussed on the most strategically important planning applications; and
- ensure planning applications submitted by, or on behalf of, the officers in the Planning service and supporting services are considered by the Planning Committee and not under officer delegated powers to safeguard against any perceived conflicts of interest and to promote independence and transparency.

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### **Service plan**

R2 The Council's Planning Service should clearly present its performance measures and targets in its service plan.

# Detailed report

## What we looked at and why – the scope of this audit

- 1 Our objective for this audit was to gain assurance as to whether the Council has in place proper arrangements for the governance of its planning service that secures value for money in its use of resources.
- 2 Our findings are based on document reviews, Planning Committee meeting observations and interviews with elected members and officers. The evidence we used to inform our findings is limited to these sources.
- 3 We set out to answer the question '**Do governance arrangements relating to the planning service demonstrate proper arrangements to secure value for money in the use of its resources?**' We did this by exploring the following questions:
  - Does the Planning Service have objectives aligned to corporate strategic priorities?
  - Does the Planning Service have clearly defined roles and responsibilities which are adhered to?
  - Does the Planning Service review and monitor the effectiveness of its arrangements?
- 4 **Appendix 1** sets out the detailed questions we set out to answer along with the audit criteria we used to arrive at our findings.
- 5 We undertook this review in July 2023.

## Why we undertook this audit

- 6 This audit was undertaken to help fulfil the Auditor General's duties under section 17(2)(d) of the Public Audit (Wales) Act 2004 and Section 15 of the Well-being of Future Generations Act (Wales) 2015.

## What we found: The Planning Service has actions clearly aligned to the corporate well-being objectives and a supportive working culture but there are gaps in governance arrangements making some procedures unclear

### There is clear alignment between the Planning Service's key actions and the Council's wellbeing objectives

- 7 The planning service is a key enabler to the Council delivering its well-being objectives. The planning service contributes at an early stage in major project developments to help establish if a project is feasible and advises on relevant local and national planning policies. This means the Council is receiving professional planning advice at the appropriate time before the allocation of potentially significant resources on developing major developments that may not meet relevant planning policies.
- 8 The Planning Service's objectives clearly align with the Council's priorities. The Sustainable Development service plan 2023-24 and Planning Service team plan 2023-24 include actions which contribute to the delivery of the Council's objectives. However, the Planning Service team plan only reflects the planning, enforcement and policy actions cited in the Sustainable Development Service Plan. There is no added detail, no performance measures, and no targets, therefore the lack of detailed information such as performance measures, can limit the service's ability to accurately monitor and determine performance.
- 9 The Council has increased its resources to support delivery of the replacement Local Development Plan (LDP). The LDP forms the basis of planning decisions made by the Council and, where possible, links with the aims of the Corporate Plan. The planning policy team is currently working on a Replacement Local Development Plan (RLDP). This is driven by the impending end date of the current LDP with a need for the RLDP to be adopted by October 2026. This is a significant piece of work which will shape the future development of the County and the Council. Producing a RLDP is both time intensive and costly. At the time of our fieldwork, the planning policy team were fully staffed, and the Council had increased its budget for 2023-2024. Allocating additional resources demonstrates the value the Council places on developing a RLDP and its strategic importance in contributing to its well-being objectives.
- 10 The planning policy team communicates regularly and innovatively on the progress and activity of its RLDP. There is also evidence that the planning policy team is constantly reflecting and developing as a team particularly with its consultation and engagement methods both internally and externally. The planning policy officers work with the Council's Communications Team on this engagement which



demonstrates the existence of integrated working practices. There have been several engagement events held with Town and Community Councils, senior Council officers, elected members, planning officers, Public Services Board, Natural Resources Wales and the local Health Board. This demonstrates a strong collaborative approach in developing the RLDP.

## **There is a positive working culture, good communication and an agile use of resources within the Planning Service**

- 11 There is a positive culture of learning and development in the planning service with staff well supported with learning and development needs. There are well-structured wider team meeting arrangements between development management, enforcement and the planning policy team providing a regular flow of communication throughout the planning service which officers value. This open and regular flow of communication results in a positive collaborative and supportive working culture.
- 12 Within the service, the weekly team meetings with team leaders encourage discussion of more subjective or complex planning applications or enforcement cases. This is particularly important in a planning service as the interpretation of planning policy is to a degree subjective. Therefore, planning officers may occasionally have differing views when determining a planning application. This arrangement encourages transparency and consistency when dealing with planning matters.
- 13 The Council recognises the long-term value to the planning service of investing in the role of student planners. In collaboration with Cardiff University, the Council created a role of student planner to provide opportunities for students completing their university degree to acquire practical experience working in a planning service. This arrangement appears to be mutually beneficial to both the students and the Council. It often results in the Council employing Student Planners as Planning officers thereby strengthening its succession planning.
- 14 The Council has a Section 106 (S106)<sup>1</sup> officer. This role provides considerable value for money and has the potential to demonstrate the very practical impact planning can have on sustainable development. The Council has reflected on this role over the years and concludes it supports the team which drives wider corporate objectives, such as green and open spaces and community wellness.
- 15 The Council can demonstrate that it is agile with its use of resources to achieve the needs of the service. Prior to our fieldwork, the Council had a vacant senior planner role. Due to a high demand for a conservation specialist, the Council recruited a conservation officer rather than a senior planner as originally planned

<sup>1</sup> A Section 106 agreement (S106) is a legally binding private contract between a developer (or a number of interested parties) and a Local Planning Authority (LPA) that operates alongside a statutory planning permission. [QG15-007.pdf \(senedd.wales\)](#)

as there was a need for the skills. This flexible culture allows the planning service to respond to internal and external pressures making a more sustainable service.

## **There are gaps in the Planning Committee's governance arrangements resulting in a lack of clear procedures to support planning officers and members in their roles**

- 16 At the time of our fieldwork, there were gaps in the Council's Planning Service governance arrangements, and this has been the case for some time. There are three key documents which can provide the Council with robust and clear procedures to support its planning governance arrangements: a Terms of Reference for the Planning Committee, a Scheme of Delegation; and a Planning Protocol. Collectively, they can provide the Council, the planning committee and the public with robust procedures, expectations and standards of those governance arrangements which support the planning service and Planning Committee.
- 17 The Council does not have a clear and sufficiently detailed Terms of Reference for its Planning Committee. The existing Terms of Reference for the Committee states the Committee exists 'to deal with all matters relating to development control, including planning applications.' Having a clear Terms of Reference outlining the Planning Committee's purpose and objectives, key areas of responsibility and review arrangements should provide clarity and focus on the activity of this integral Council committee. This lack of clarity does not support the role of the Planning Committee being clearly and consistently understood. This may also lead to an over reliance of Members needing to know their role rather than being supported by clear arrangements.
- 18 The Council's current Scheme of Delegation for the planning service does not clearly define major or strategically important applications. Therefore, it is not clear whether the Planning Committee or officers, under delegated powers, determines major applications. The Planning Service has an action within their Sustainable Development Action Plan 23-24 to review the scheme of delegation to ensure the Planning Committee is focussed on the most strategic issues. This action could lead to greater clarity on who determines strategically important planning applications.
- 19 The Council's constitution does not include a Planning Code of Practice or Planning Protocol which is often part of other Local Planning Authorities' constitutions. It sets standards of probity and conduct which the residents and planning agents operating in the Vale can expect of its members and Council officers. It can also safeguard the planning service's officers and members by having clear arrangements for how they engage directly with planning agents and applicants. Without a planning protocol there is a lack of guidance to members, officers and the public on Council procedures for dealing with planning matters.
- 20 Typically, a Planning Protocol / Code of good practice in planning may include:
  - a. elected member involvement in pre application advice;

- b. Personal, prejudicial and pecuniary interests;
  - c. Pre-determination, pre-disposition and bias;
  - d. Lobbying of Members;
  - e. Site Visits;
  - f. Officer / Member relations;
  - g. Local Ward Member involvement in Planning process;
  - h. Referral of delegated planning applications to Planning Committee;  
Conducting the meeting;
  - i. Public speaking at Planning Committee meetings;
  - j. Decisions contrary to officer recommendations; and
  - k. Reviewing the code of practice.
- 21 The Council has not defined the duties of a Planning Committee member when addressing the Committee in their capacity as a Local Ward Member who has called a planning application to the committee. This also includes clarity around their subsequent voting rights. During our fieldwork, there were differing views on how a member should interact with the committee in this situation. By not clarifying these arrangements there is an increased risk of conflicts of interest and pre-determination.
- 22 The development of a clear and accessible Planning Protocol would provide the Council with a framework for the planning process. This would assist training, support and monitoring of the Planning Committee and allow for self-reflection and accountability for any deviation from the arrangements.
- 23 During our fieldwork, we noted there is no current requirement for a planning application submitted by an officer from the planning service to be determined by the Planning Committee. A planning application submitted by a planning officer is determined by planning officers under delegated powers. Although this approach is permitted, it is good practice for such planning applications to be determined by the Planning Committee. This helps to safeguard officers against any perceived conflicts of interest and to promote independence and transparency, especially for the public.

### **The Council has sufficient arrangements in place to monitor and report on the Planning Service's contribution to the well-being objectives**

- 24 The Council has arrangements in place to regularly monitor and report on the performance of the Planning Service. The Director of Place reports performance quarterly to the Environment and Regeneration scrutiny committee. This arrangement provides assurance the service is performing as expected and, if necessary, scrutinise areas of poor performance in a timely manner.

- 25 The S106 annual report contains the value of S106 contributions the Council receives and detail on which projects the Council allocates the money. These projects drive wider Council objectives, such as green and open spaces, sustainable transport and community wellness and these are listed in the annual report. This annual report on S106 monies is sent directly to all members, and town and community councils as well as being uploaded onto the Council's website. This is a demonstrable way of reporting and monitoring the effectiveness of the S106 arrangements and its clear contributions to the sustainable development principle. There is opportunity to publicise and report the success and impact of this work more widely and demonstrate the very practical positive impacts planning can have on the development of communities.
- 26 Since the requirement from Welsh Government to produce a Planning Annual Report ended due to the pandemic, there is no standalone report which pulls all Planning Service performance, successes and challenges into one place for review. Whilst there is no requirement for this to happen, there is an opportunity for the service to highlight current challenges and the positive work the service delivers.

# Appendix 1

## Audit questions and audit criteria

Below are the questions we sought to answer in carrying out this audit, along with the audit criteria we used to arrive at our findings.

Main audit question: **Do governance arrangements relating to the planning service demonstrate proper arrangements to secure value for money in the use of its resources?**

### Exhibit 2: audit questions and audit criteria

Level 2 questions	Criteria
1. Does the Planning Service have objectives aligned to corporate strategic priorities?	<p>The planning service has a business plan (or equivalent) with relevant objectives which are understood by those involved in the planning service.</p> <p>The Local Development Plan objectives are integrated into planning service delivery.</p> <p>The planning service has set out measures that reflect short and long-term impacts, with milestones that reflect progress as appropriate.</p> <p>The Council has effective internal communication including regular team meetings within the service and with its partners.</p> <p>There is a supportive culture to address any differences of professional opinion when determining planning applications and planning enforcement cases.</p> <p>The planning service has set out how the service business plans will be resourced over the medium to longer term as far as is practical (e.g., plans to support developments such as Developments of National Significance etc)</p> <p>The planning service is integrated as a key enabler to support the Council achieve its corporate objectives.</p>

Level 2 questions	Criteria
<p>2. Does the Planning Service have clearly defined roles and responsibilities which are adhered to?</p>	<p>There is a clear terms of reference for the Planning Committee.</p> <p>Planning Committee members and planning staff receive appropriate training and support to understand the service objectives, planning policies, the role of a committee member and committee procedural arrangements.</p> <p>The Council has a planning committee protocol (or equivalent) containing a code of conduct and planning committee procedural arrangements which officers and members understand and adhere to.</p> <p>The Council guides non-Planning Committee members on local and national planning policies and committee procedural arrangements.</p> <p>The Council has a clear and transparent scheme of delegation which is adhered to.</p> <p>The planning service has clear and transparent processes for determining planning applications</p>
<p>3. Does the Planning Service review and monitor the effectiveness of its arrangements?</p>	<p>The Planning Service demonstrates how it involves staff and key partners in designing future service delivery.</p> <p>There is a supportive culture of learning and development for planning staff and Members which is regularly reviewed.</p> <p>The Planning Service and Planning Committee have a culture of continuous development and observes best practice from other Local Planning Authorities.</p> <p>There are arrangements for the Planning Service to report its performance against its objectives to senior management, members and the public.</p>



Audit Wales

Tel: 029 2032 0500

Fax: 029 2032 0600

Textphone: 029 2032 0660

E-mail: [info@audit.wales](mailto:info@audit.wales)

Website: [www.audit.wales](http://www.audit.wales)

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# **Planning Protocol**

**A Member, Officer and Stakeholder Guide**

**2025**



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## OVERVIEW OF THE DOCUMENT

This Planning Protocol is a Code of Practice which sets out principles to guide Members and Officers in determining planning applications and making other decisions within the terms of reference of The Planning Committee. Although of particular relevance to Members of Planning Committee it applies to all Members of the Council who may become involved in planning and development matters.

This Planning Protocol supplements and sits alongside the Protocol for Member/Officer Relations and the Council's Members' Code of Conduct. Where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code. This Protocol applies together with the Council's Procedure Rules (as set out in the Council's Constitution) insofar as they relate to Committees.

### 1 Introduction

- 1.1. Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community and ensuring that all parties have faith and trust in the integrity of the system.
- 1.2. The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3. The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:
  - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
  - Members should not place themselves in situations where their honesty or integrity may be questioned.
  - Members should make decisions on merit.
  - Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - Members should respect the impartiality and integrity of Officers.

- 1.4 The Council is committed to open, fair and transparent decision making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons, and with the Council's 5 ways of working embedded.
- 1.5 This Protocol sets out practices and procedures that Members and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy, and the enforcement of planning control.
- 1.6 Failure to follow this Code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Members and Officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a Member or Officer should seek the advice of the Council's Monitoring Officer.

## **2 Equalities and other Statutory Duties**

- 2.1 The Council is subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to material Planning considerations..
- 2.2 Section 149 of the Equality Act 2010 provides that: A council must, in the exercise of its functions, have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between persons who share a protected characteristic and persons who do not share it. The above powers relate to the following protected characteristics:
  - age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race (including colour, nationality and ethnic or national origins); religion or belief; sex; or sexual orientation.
- 2.3 The Council's Equality Policy and Strategic Equality Plan describe what the Council is doing to fulfil its duties under the Equality Act 2010, including the Public Sector Equality Duty (general duty) and the specific duties for Wales. The Equality Act 2010 says that public authorities must comply with the public sector equality duty, and this is to make sure public authorities are consciously working against discrimination and considering the needs of people who are disadvantaged or suffer inequality, when they make decisions about how they provide their services and implement policies.
- 2.4 The Vale of Glamorgan is a diverse area comprising very different communities with different aspirations, needs and concerns. It is therefore important that the Planning Service in the Vale of Glamorgan works to meet those needs, and includes people of all protected groups at the heart of its thinking and decision making. The Council should consider not only the stakeholders who proactively engage and submit representations, but rather the potential impacts on the well being of all its residents, some of whom may be unable to engage fully and make representations. All planning

decisions must comply with the Public Sector Equality Duty, and due regard will be given in each case as to whether an Equalities impact Assessment is required to appropriately assess those impacts.

2.5 These principles underpin the whole of this protocol, and consequently officers and members should have due regard to this duty when considering and implementing all of the guidance in this Protocol.

2.6 Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

2.7 Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

### **3 The Role and Conduct of Members and Officers**

3.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole. A well managed Planning Committee that makes sound, defensible planning decisions is dependent on Members who understand the Planning and decision making process and officers who can provide the Members with the advice they need to make those decisions. In particular, it relies on mutual respect and trust between the officers and Members of the committee.

3.2 The role of a Member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

3.3 Whilst Members have a special duty to their residents in their electoral division, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.

3.4 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.

3.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.

- 3.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 3.7 Officers in their role of advising Members shall provide:
- impartial and professional advice;
  - a consistent and clear interpretation of planning policy;
  - balanced written reports covering all necessary information for a decision to be made.
  - a clear recommendation;
  - advice to carry out the Committee's decisions.
- 3.8 The Council endorses the statement in the RTPI code that, "RTPI Members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions", and extends it to apply to all Officers in the authority advising on planning matters.
- 3.9 That the Committee may not always follow the advice of their professional planning Officers is perfectly proper. The professional Officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Members or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than what it really is. Advice regarding procedure for when Officer recommendations are not supported by Committee is contained at Section 17 of this protocol.

#### **4 Procedures and Conduct for Applicants, Agents and Representors**

- 4.1 The Planning system within the Vale of Glamorgan should be underpinned by principles of transparency, equity, collaboration, trust and respect. The Council recognises that the Planning process can be controversial and emotive, resulting in potential tensions at various stages. Decisions often require judgement and inevitably different stakeholders may have differing perspectives on the weight to be afforded to different factors, or on how a matter is critically assessed. Despite this, it is imperative that all stakeholders display respect and courtesy for one another.
- 4.2 There may be instances where an applicant, agent or representor is dissatisfied with an element of the process. In these instances, where the matter cannot be resolved with the case officer, the matter should be directed to the Team Leader/Line Manager for the service in that area in the first instance. If the matter cannot be resolved at this level, then it may be appropriate for it to be referred to the Operational Manager or Head of Service. It is important that this process is followed, to ensure that there is demonstrable fairness and consistency for all those participating in the Planning system. Complaints can be made via the Council's Corporate Complaints process, however, stakeholders are encouraged to seek a dialogue as described above to resolve issues in the first instance.

## **5 Interests of Members**

- 5.1 Where a Member has an interest which may be perceived as likely to influence their decision, the fact should be declared at the meeting.
- 5.2 Where the interest is such that members of the public may feel that the Member will not be able to approach matters with an open mind and consider the application on its planning merits, the Member should consider withdrawing from the Committee for that item.
- 5.3 These principles apply equally to Members who are not Members of the Planning Committee. Members who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 5.4 Members should seek guidance from Officers including the Monitoring Officer, if unclear about whether an interest would be likely to be considered as prejudicial to impartial decision making. A register of Members' interests will be maintained by the Council's Monitoring Officer and is available for public inspection. A register of Planning Officers' interests will be maintained by the Operational Manager for Planning and Building Control.
- 5.5 There are generally three types of interest, 'Personal' 'Prejudicial' and 'Pecuniary.' A member will have a Personal interest in a Planning Committee decision if:
- the matter relates to an interest in respect of which the Member has given notice in the statutory Register of Member's interests; or
  - The decision might reasonably be regarded as affecting their wellbeing or financial position or that of a relative or friend or employer to a greater extent than other Council taxpayers, ratepayers or inhabitants of the Authority's area.
  - A member will have a Prejudicial interest in a Planning Committee decision if: a Personal interest is established; and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it was likely to prejudice the member's judgement (decision) in the public interest.
- 5.6 The Members Code of Conduct provides guidance as to personal and prejudicial interests which may affect a Member's ability to take part in the decision making process. However, Members may have other interests which may influence their decision which will not amount to personal or prejudicial interests for the purposes of the Code. In order to maintain the integrity of the planning system, Members should be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:
- from electoral division concerns;
  - from Membership of other Committees of the Council;

- from Membership of other public or community bodies;
- from Membership of voluntary associations and trusts (including where appointed by the Council);
- from a connection with a particular policy initiative of the Council;
- from Membership of clubs, societies and groups; and
- from hobbies and other leisure interests.

5.7 Pecuniary interests are defined in regulations. The regulations in general will mean that a member will have to register any interest they or their husband or wife or civil partner has in:

- any employment, office, trade, profession or vocation that they carry on for profit or gain
- any sponsorship that the councillor receives including contributions to the councillor's expenses as a councillor; or the councillor's election expenses from a Trade Union.
- any land licence or tenancy they have in The Vale of Glamorgan;
- any current contracts leases or tenancies between the council and them
- any current contracts leases or tenancies between the council and any organisation with land in The Vale of Glamorgan in which they are or have a partner, a paid director, or have a relevant interest in its shares and securities;
- any organisation which has land or a place of business in the Vale of Glamorgan and in which they have a relevant interest in its shares or its securities.

5.8 If a Councillor has a pecuniary interest they must leave the meeting immediately and can not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.

5.9 Such interests may mean that a Member is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a Member from participating in making the planning decision when the matter is considered by Planning Committee providing that the Member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Member considers that this is not possible, the Member should withdraw from consideration of that item.

5.10 As a minimum, the integrity of the planning system requires openness on the part of Members; it must operate fairly and be seen to operate fairly.

5.11 Members of the Planning Committee who are also members of a Town or Community Council (known as twin-hatted members) are not prevented from discussing the same planning application at both. Members may take part in a discussion about a planning application which their community council has been consulted and still go on to participate in a decision about the application if they sit on the planning

committee. In such circumstances, a Member is advised to state at the community council meeting that they would be looking at the matter afresh when they consider it at the Council's Planning Committee that they would take into account all of the information and advice provided to them. At the Planning Committee, they should make it clear that they are not bound by the views of the community council. If the planning application is one submitted by the Member's community council then they would have both a personal and a prejudicial interest, and they would be required to declare it and withdraw in line with the Council's Member's Code of Conduct.

## **6 Bias, Pre-determination and Pre-Disposition**

- 6.1 In addition to being aware and taking appropriate action in relation to interests, Planning Committee Councillors need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to.
- 6.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the committee's decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.
- 6.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear that, although they have an initial view, they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such a planning decision.
- 6.4 Section 25 of the 2011 Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This enacted the common-law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and potentially changing their mind in the light of information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 6.5 For example, a Councillor who states, "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a Councillor who states, "Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area". The former has a closed mind and is predetermined, whereas the latter is predisposed but is maintaining an open mind.



## **7 The role of the local ward member**

- 7.1 There are obvious and understandable tensions associated with being the local member for an application being discussed at Planning Committee. Members are elected or appointed to represent their entire ward, to create and implement policy, and to act in the wider public interest. However, where there are controversial development plans or other situations resulting in their lobbying by the local electorate there is an expectation that it is their job to support and represent those local views, even though those views can sometimes conflict with the prevailing policy or wider public interest. In some cases the local member expectation to represent local views is fulfilled through the member (who is not on the planning committee) appearing at the committee to speak on an application.
- 7.2 Accordingly local members who are not on the planning committee should be able to speak at committee on applications within their local area. However, they should form part of the public speaking element of the decision-making process and should not appear to be part of the committee. Local members are not required to register to speak and are afforded a maximum of 5 minutes speaking time irrelevant of the number of other speakers.
- 7.3 Local members that are on Planning Committee must have regard to the provisions of Section 25 of the Localism Act 2011 and decide whether they have pre-determined a matter which is due to come before the Planning Committee. If the local member concludes that they have pre-determined the matter they must not take part in the decision-making process of the matter. It will be appreciated that the issue of pre-determination has wider applicability rather than solely to local members. However if a member requires further guidance on this issue it should be sought from the Monitoring Officer.
- 7.4 The Council's Constitution sets out the procedures governing the calling in of planning applications to Planning Committee as follows: Where any Member of the Council requires that a particular application shall be determined by the Planning Committee, the application will be referred to the Committee for consideration subject to the Member contacting a senior Planning Officer within 21 days of latest notification date of the application and such request being substantiated by a good planning reason or demonstration that strong local objections had been received and in the case of a difference of opinion between the relevant officer and any Member the matter shall be referred to the Chair of the Planning Committee for consideration of the Member's request.
- 7.5 If members intend to make representations relating to planning applications (whether the determination is at Committee or under Delegated Powers), these representations should be made within 21 days of the notification, to ensure that the comments can be taken into account as early as possible in the assessment of the application. In the case of both 'call ins' and representations in respect of delegated decisions, Members are reminded of the importance of considering what is a material Planning consideration (see section 12 of this Protocol).

## **8 Development Proposed by the Council or a Council Owned Company**

- 8.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 8.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 8.3 Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare a personal and prejudicial interest and take no part in the discussion and determination of that proposal, except where they are the local Member when they may speak on matters of local concern but shall not vote.
- 8.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

## **9 Lobbying**

- 9.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal may seek to amplify their representations by an approach to their local Member or Members of a Planning Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 9.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning Officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide Officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 9.3 The time for individual Members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 9.4 A Planning Committee Member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to Officers). Even though they may agree with a particular view, Committee Members should take care about expressing an opinion indicating they have made up their mind before the decision making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely open to reasoned persuasion at the decision making meeting.
- 9.5 Members who are lobbied should:
- make clear that they reserve their final decision on a proposal until the committee meeting:

- only give procedural advice;
- consider referring those lobbying to the relevant Officer who can provide further advice; and
- not seek to meet an applicant or potential applicant alone.
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is entirely unavoidable, ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and
- inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.

9.6 Members of the Planning Committee shall not organise support or opposition for a proposal, or lobby other Members (other than when addressing the Planning Committee). Members shall not put improper pressure on Officers for a particular recommendation.

9.7 A Member who is not a Member of the Planning Committee will be allowed to attend and speak at the decision making meeting (either presenting their own views if they are an affected party or representing the views of their residents of their electoral division as part of the public speaking procedures) but not vote. A Member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.

9.8 If a Member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, that Member shall be given the opportunity to address the Committee as part of the public speaking procedures.

9.9 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

9.10 Members of the Planning Committee who are not present at the commencement of consideration of an application by Planning Committee must consider whether or not they have sufficient information to participate in the debate and vote. The final decision on whether a Member may participate in the debate and vote shall be taken by the Chair.

## **10 Pre and Post Application Discussions and Negotiations**

10.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to the Planning process and is generally encouraged as good practice. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important

facet of the planning process. However, they should take place within clear guidelines, as follows.

- 10.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision (in respect of a subsequent Planning application) and that any views expressed are those of the Officer only, are provisional, and are not subject to the full consideration of the Planning merits (including consultation with members of the public and other stakeholders).
- 10.3 Advice should be consistent and based upon the Development Plan and known material considerations. There should be no significant or fundamental difference of interpretation of planning policies by individual planning Officers.
- 10.4 A written note should be made of all potentially contentious meetings. Two or more Officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 10.5 The Localism Act 2011 has sought to clarify member involvement at the pre-application stage. With the increasing emphasis and encouragement on frontloading the process and the seeking of advice at a pre-application stage there are distinct advantages in involving members. Provided that members avoid expressing an overall view and indication of how they intend to vote and limit their questions to an understanding of the proposal or asking questions they could not be viewed as having a closed mind. However, without an agreed protocol member involvement may unnecessarily open any member on the planning committee to avoidable risks of challenge on apparent pre-determination.
- 10.6 Any pre application discussions which include members should be part of a structured arrangement with Officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 10.7 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the Officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant Officer.

## **11 Officer Reports to Planning Committee**

- 11.1 The planning Officer will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Officer shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include

a summary of representations made about the application. The Officer in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

- 11.2 The Planning Department will have available for inspection by Members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.
- 11.3 The Planning Officer will make available any written representations received too late to be referred to in the committee report (but no later than 12.00 noon the day before the relevant committee meeting) and will circulate these to Planning Committee Members the evening before the Committee meeting. These are referred to as Matters Arising.

## **12 Planning Considerations**

- 12.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 12.2 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.
- 12.3 Briefly, at the date of the preparation of this Protocol, material planning considerations include (but are not necessarily limited to):
- the Development Plan (LDP and Future Wales); Government Guidance (contained in such documents as Circulars, Technical Advice Notes, Planning Policy Wales, and Ministerial announcements);
  - Supplementary Planning Guidance (SPG) documents;
  - non-statutory planning policies adopted by the Council;
  - the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
  - the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
  - representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;
  - planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.

- A site's planning history
  - Relevant caselaw
  - It must, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 12.4 It is the role of Officers in preparing reports and recommendations to Members to identify the material planning considerations and warn Members about those matters which are immaterial planning decisions.
- 12.5 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.
- 12.6 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 12.7 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 12.8 It will be inevitable that all the considerations will not point whether to grant or refuse. Having identified all the material planning considerations and put to one side all the immaterial considerations, Members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

### **13 The Decision Making Process**

- 13.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise. Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 13.2 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 13.3 Where the Planning Committee decide to adopt the recommendation of the Planning Officer, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 13.4 Prior to a substantive motion being voted upon which is contrary to the recommendation of the Planning Officer, regard shall be had to section 17 below.

- 13.5 The reasons for Committee's decision to defer any proposal should be recorded.

#### **14 Site Visits by the Committee**

- 14.1 A site visit may be held if it will assist Members in reaching their decision. However, when considering the need for a site visit, Members should have regard to the model advice in the development control manual as below, which will be in the forefront of the Head of Sustainable Development, the Chair of Planning Committee and the Director of Place's mind when considering whether a Planning site visit is held.

*9.6.18 Local Planning Authorities should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. Site visits should only be held on an exceptional basis where the benefit is expected to be substantial. Where required they should be identified in advance of the committee meeting at which the application is due to be discussed and the site visit should occur no more than a week in advance.*

- 14.2 Members can ask for a committee site visit but this should be done as early as possible, in advance of the committee meeting at which the application is being discussed. This is because any request at the Planning Committee meeting itself would result in the planning application not being decided until the following Planning Committee meeting, which would have an adverse impact upon the ability of the Council to decide planning applications in accordance with statutory targets. Requests made for Site Visits will be considered by the Chair and will only be allowed where the benefit is expected to be substantial.
- 14.3 It is important to consider that Planning site visits are to view the site/location of a specific application, they are not opportunities to consider the merits or disadvantages of a Planning application. The proper time to debate the application is during the Planning Committee meeting.
- 14.4 All formal site visits of the Planning Committee will require prior approval of the Chair along with the Head of Sustainable Development or Operational Manager for Planning and Building Control (or in their absence the Director of Place).
- 14.5 Prior to the despatch of Agenda papers, the Head of Sustainable Development or Operational Manager for Planning and Building Control will consult with the Planning Committee Chair on the necessity and benefit of holding site visits relating to any applications being considered at the forthcoming meeting of the Planning Committee.
- 14.6 If a site visit is deemed beneficial, then an invitation will be sent to all Planning Committee members, local Ward Members and any relevant Town or Community Council Clerk. Where appropriate, the relevant Planning Agent will likely be in attendance. Members of the public have no right to attend.
- 14.7 Members of the Planning Committee, or a local Ward Member for the Ward in which an application falls, may request a formal site visit up to 48 hours after the Agenda for the Planning Committee Meeting at which the Planning Application is to be considered, has been despatched electronically. Any request must be approved by

the Chair and the Head of Sustainable Development or Operational Manager for Planning and Building Control (or in their absence the Director of Place).

- 14.8 All Councillors should be aware that a site visit can also be requested during the Planning application process phase, with a request made to the Head of Sustainable Development or Operational Manager for Planning and Building Control. This will also depend on whether the application is to be determined by the Planning Committee. Again, any request must be approved by the Chair and the Head of Sustainable Development or Operational Manager for Planning and Building Control (or in their absence the Director of Place).
- 14.9 If agreed site visits will usually take place on the morning of the day of the Planning Committee meeting. Site visits will usually commence at 9:30am, but this is at the discretion of the Chair of the Planning Committee. On occasions where multiple site visits are being held for multiple applications, then the order and timings of the visits will be determined by the Chair.
- 14.10 Where parking is limited, the site visit invitation will usually include a meeting point and a map providing further details. If parking is extremely limited then the Chair can agree for arrangements to be made for the hiring of a minibus.
- 14.11 On arrival, members of the Planning Committee or local Ward Members invited to attend, should make their presence known to the Democratic and Scrutiny Services Officer, who will record attendance and any apologies for absence.
- 14.12 If any Member has a prejudicial interest or has pre-determined an application, then that Member should refrain from attending the site visit.
- 14.13 Planning Officers will direct attendees to the most appropriate location(s) to view the site. Members should carefully follow the directions and instructions provided by the Planning Officers or the Democratic and Scrutiny Services Officer in attendance. Members should be prepared for inclement weather and harsh walking conditions. Access to private land is at the discretion of the land owner, so access can be removed at any time. This is not in the control of the Council or the Chair.
- 14.14 Planning site visits are not public meetings, but where an application is highly controversial Members should expect some degree of public presence. Please note that the public or Agents or Applicants should not address the Members at the site visit as not all members of the Committee will be present, this should be done as part of the Planning Committee meeting.

## **15 Representations on Planning Applications (including public speaking)**

- 15.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations relating to planning applications being considered at Planning Committee will be accepted and made available for public/Member inspection where they are received no later than 12.00 noon on the day before Planning Committee. Those representations received too late to be referred to in the committee report (but no later than 12.00 noon the day before Committee) will be circulated to Planning Committee Members the evening before



the Committee and hard copies will be distributed at the meeting (referred to as 'Matters Arising').

- 15.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Planning Committee. In such circumstances, the following procedure will apply:
- 15.3 Registration to Speak- It is necessary to have sufficient advance warning of speakers to gauge the likely overall public attendance, to prepare agendas, make preparations to provide simultaneous Welsh Translation and to offer support and advice on how to proceed. It may also be necessary to resolve any issues regarding nominating a lead speaker and those persons will need a reasonable timeframe to co-ordinate their response.
- 15.4 Unless specifically notified to the contrary, in registering to speak the Council will consider consent being inherently given to forwarding contact details to others (of the same opinion) who wish to speak in order to assist you to nominate a single spokesperson.
- 15.5 The neighbour notification letters and the planning application acknowledgement letter will both advise respondents and applicants of the right to speak at committee and it will be the responsibility of those wishing to speak to register to speak.
- 15.6 The request to speak notification period will open at 8:30am, the day after the Agenda Papers have been published and will remain open for 6 days (the first day being the day that the registration form opens). The registration period will close 5:00pm on the sixth day. Members of the public who wish to register to speak at a meeting of the Council's Planning Committee, should do so by completing the appropriate public speaking registration form by no later than 5.00pm, 3 clear working days prior to and not including the meeting day.
- 15.7 To register interest, parties should complete the online form, which can be found at:  
[https://www.valeofglamorgan.gov.uk/en/living/planning\\_and\\_building\\_control/Planning/planning\\_committee/Planning-Committee.aspx](https://www.valeofglamorgan.gov.uk/en/living/planning_and_building_control/Planning/planning_committee/Planning-Committee.aspx)
- 15.8 It is recognised that there will be individuals who will not have access to an electronic facility. Those individuals will be able to register to speak by telephone on 01446 709855 (they will be asked to provide the same information required in the online form).
- 15.9 Each individual speaker will be allowed no more than 3 minutes to address the Committee, and (regardless of the number of speakers) those speaking for and against will be allocated the same amount of time in total.
- 15.10 A maximum period of 6 minutes will be allowed for those registered to speak for or against an application to address the Committee. If more than one person is registered to speak for or against, they are encouraged to nominate one spokesperson. Otherwise, the 6 minutes allocated will be split evenly between those persons registered to speak. In the event that two or more persons are registered to speak against an application, where there is only one person registered to speak in

favour, they will be allocated 6 minutes to speak. This is to ensure that there is equality of time afforded to those speaking for and against any application. The time limits will be strictly observed.

15.11 Those persons addressing the Committee will not be allowed to hand out any documentation to Members at Committee, and no facilities will be provided or made available for presentations (nor will presentations be permitted).

15.12 Subject to compliance with the registration and procedural requirements set out in this guidance, the following persons are eligible to speak:

- Objectors to the application or their representative;
- The applicant or their representative;
- A representative of a Town or Community Council;
- Any Councillor elected to the Vale of Glamorgan Council not on Planning Committee

15.13 Vale of Glamorgan Council Members are not required to register to speak, but the above procedure applies to Town and Community Councillors, who must register to speak in accordance with the guidance and are afforded a maximum of 3 minutes speaking time to represent their individual Council irrespective of other persons registered to speak. The individual registered to speak on behalf of the Town or Community Council must be nominated by the Proper Officer of the Council i.e. the Town or Community Council Clerk or acting equivalent by way of an email sent to [Democratic@valeofglamorgan.gov.uk](mailto:Democratic@valeofglamorgan.gov.uk). Only one representative from each Town and Community Council may speak on any given application. Where there are cross boundary applications being considered, Town and Community Councillors from each area will have 3 minutes speaking time at the Committee.

## **16 Running Order of Committee**

16.1 The running order will be as follows (subject to the provisions set out above applying in the event of there being more than one person registered to speak for or against the application) :

- At the meeting, the Chair of the Committee will introduce the planning application by Planning Application number and with reference to the application site address.
- The Planning Officer will present the report, including a description of the proposal and the site, the main issues pertaining to the merits of the application (including any relevant Planning History, or key consultation responses). The officer will also summarise any 'Matters Arising' received.
- Those objecting to the applications will be asked to make their representations. Those speaking will not be allowed to ask any questions of officers or the Committee. Members of the Committee who wish to ask questions of clarification may do so at the end of the allocated period,

however, they should not interrupt or otherwise question the speaker(s) in any way, or seek to question the speaker on anything that is not a point of clarification.

- Any Vale of Glamorgan Councillor that has declared a prejudicial interest is still entitled to speak on a Planning Application in accordance with the Council's Code of Conduct but must withdraw from the meeting prior to Committee debate. A time limit of 5 minutes will apply. Any Member of the Planning Committee with a prejudicial interest will not be able to vote on the Planning Application itself in line with the Council's Code of Conduct. Members of the Committee who wish to ask questions of clarification may do so at the end of the allocated period, however, they should not interrupt or otherwise question the speaker(s) in any way, or seek to question the speaker on anything that is not a point of clarification.
- Any Councillors of the Vale of Glamorgan Council not on Planning Committee will then be entitled to address the Committee, subject to a time limit of 5 minutes per Councillor. Members of the Committee who wish to ask questions of clarification may do so at the end of the allocated period however, they should not interrupt or otherwise question the speaker(s) in any way, or seek to question the speaker on anything that is not a point of clarification.
- Any Town and Community Council Representatives will then be entitled to address the committee, subject to a time limit of 3 minutes per Councillor.
- Those supporting the application will then be asked to make their representations. Those speaking will not be allowed to ask any questions of officers or the Committee. Members of the Committee who wish to ask questions of clarification may do so at the end of the allocated period however, they should not interrupt or otherwise question the speaker(s) in any way, or seek to question the speaker on anything that is not a point of clarification.
- The Council's Officers may then comment on the representations made and the merits of the application.
- The Committee will proceed to debate the application and make a decision. The Planning Officer may be asked by the Chairman to address any issues raised during the debate. The minutes of the meeting will include the reasons for the decision.
- There will be no right of reply and no requirement for speaking to be "balanced" if there is no registered speaker in a certain slot.

16.2 Agents/Applicants are requested to consider the merits of speaking at the Committee meeting when the application is recommended for approval and where no one objecting has registered to speak. Agents/Applicants are encouraged to register to speak during the registration window and then withdraw their registration prior to the

meeting, should they only wish to speak if there is a speaker in opposition. Once the registration window has closed, the Democratic Services Officer will be able to confirm the number of registered speakers for the application as a whole but will not provide any specific information on the speakers themselves.

- 16.3 If a motion is not made proactively by a member of the Committee, The Chair will then normally ask if anyone is prepared to move the officer recommendation or propose an alternative motion. Once a motion has been seconded it will be open to the councillors to debate it and ask further questions of officers if required. The rules of debate as detailed in Part 4 of the Constitution will apply.
- 16.4 After a motion has been seconded, it is possible for an amendment to be moved. An amendment may be accepted by the proposer and seconder of the original motion. However, if the amendment is not accepted by the original proposer/seconder, then the amendment (subject to it being seconded) is debated/voted upon before the original motion.

## **17 Deferrals and Decisions contrary to Officer Recommendation**

- 17.1 An application may be deferred at a Committee meeting on the basis that further information and / or analysis is required. The same procedure for public speaking will apply when the application is considered at the subsequent Committee meeting(s) i.e persons wishing to speak on the item will need to register again
- 17.2 The reason why a planning application comes to a Planning Committee is because the Council considers that it requires wider public scrutiny and the decision should be made by elected councillors rather than delegated to officers. Therefore, Members of the Planning Committee have the ability to overturn an officer recommendation. However, any contrary decision must be made on sound planning reasons and reasonable in all other respects.
- 17.3 Where a motion against the recommendation set out in the report (or an amendment to the recommendation) is proposed, reasons for voting against the recommendation must be given. These must be material planning reasons as set out in Section 12 of this Protocol and the Committee may need to temporarily adjourn to deliberate in private.
- 17.4 The Planning Committee should, before voting on the motion, receive advice from the Head of Planning (or their representative) and if necessary the Legal Officer at the meeting, as to the form of a new motion. That advice will be based upon the material planning considerations that may well have been discussed by the Planning Committee in public or private debate.
- 17.5 Once the Planning Committee has received the advice of the Head of Planning (or their representative) and/or Legal Officer, they can proceed to a vote. A detailed minute of the Planning Committee's reasons to go against the officer's recommendation will be recorded.

- 17.6 Paragraph 9.6.17 of the Welsh Government Development Management manual states that where necessary, planning committees should defer applications by using a 'cooling off period' to the next committee meeting when minded to determine an application contrary to an officer recommendation. This is in order to allow time to fully consider, manage the risk associated with this action, and ensure officers can provide additional reports and draft robust reasons for refusal or necessary conditions for approval. This is particularly important in cases where the Planning Committee report is the only submission that would be put forward in any subsequent appeal (e.g. all Householder cases).
- 17.7 In such circumstances, it would usually be most appropriate for the motion take the form of a deferral, in order for a report to be brought back to a future meeting with conditions supporting an approval, or reasons for refusal (as appropriate). This will give officers the opportunity to present a comprehensive recommendation to reflect the Committee's position, and an amended reported which sets out the Members' rationale for that decision. When reported back to Committee, it may be the case that in accordance with the RTPI Code of Conduct, Officers' professional recommendation remains the same. However, the deferral and subsequent report would allow Members previous position to be fully reflected in recommended conditions or reasons for refusal.

## **18 Appeals against Council decisions**

- 18.1 Officers' Role- Officers will defend planning appeals on behalf of the Council whether by written representations, through a hearing or public inquiry. In some circumstances where specialist knowledge is required it may be necessary to appoint consultants to present the Council's case.
- 18.2 Committee Members Role- In cases where an appeal is lodged as a result of a decision taken contrary to Officer advice, the Director of Place/Head of Sustainable Development will consider whether Members should present the case for the Council. There will be instances where Officers can act in an advocacy role in cases where they do not agree with the decision. However, in cases where that decision is considered unsound, unreasonable or would otherwise compromise the professional position of Officers, Members will be required to present the case, potentially with the aid of an appointed consultant. Officers will assist in terms of technical, logistical and administrative support.
- 18.3 Members support of an appellant- Where a member, who has expressed support for the applicant at the time of the decision, decides to make representations supporting the appellant, that member must ensure that those representations are qualified at the beginning of an appeal to confirm that those representations are not the view of the Local Planning Authority but are purely the view of that particular member.
- 18.4 RTPI Code of Conduct- Whether or not the Officer is a member of the Royal Town Planning Institute, they will be required to respect the professional code of conduct of that RTPI. It demands that Officers do not make statements purporting to be their own but which are contrary to their bona fide professional opinion. Where the

Director of Place or Head of Sustainable Development clearly feels that Officers would be unable to defend such decisions on appeal (due to requirements of the Professional Code of Conduct of the Royal Town Planning Institute) then this shall be made known to the Committee. In such cases the Committee may nominate a Member who voted contrary to the recommendation to appear at any appeal and explain the Committee decisions and the reasons for them.

## **19 Review of Decisions**

- 19.1 The Audit Commission's Report, "Building in Quality", recommended that elected Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision making and help with reviews of planning policy.
- 19.2 Visits to application sites previously considered by the Council shall be organised once a year or as appropriate. Briefing notes shall be prepared in each case.
- 19.3 Attendance at the review site visits shall be restricted to Members of the committee.

## **20 Training**

- 20.1 Members should not participate in decision making at meetings dealing with planning matters if they have not attended any mandatory planning training prescribed by the head of the planning service and Monitoring Officer, and/or determined by the Cabinet/Council. This will be provided by the Council's Planning and Legal services (and where appropriate external trainers) and will cover the principles of planning and decision making as part of the Council's Member Induction and Development Programme.
- 20.2 All Planning Committee Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively. Training provided on planning related matters is aimed at Planning Committee Members but is always open to any Member with an interest to attend.

## **21 Review of the Protocol**

- 21.1 This Protocol will be reviewed annually, and amended where required (and subject to agreement by the Council in accordance with the processes set out in the Constitution), to reflect any relevant changes in legislation and Planning practice, or to address any issues arising in the prior 12 months that are not already addressed by the Protocol.

## PLANNING COMMITTEE TERMS OF REFERENCE

### 1. Membership and Meetings

- 1.1 Seventeen Members (politically balanced) to be appointed by Full Council at the Annual Meeting.
- 1.2 Meetings to normally be held at intervals of 4-5 weeks on a Thursday at 4pm, other than where other Council meeting cycles or Council business require a deviation from that pattern of intervals with approval from the Chair.
- 1.3 The Size and Composition of Local Planning Authorities Committees (Wales) Regulations 2017 require Local Authority Planning Committees in Wales to be structured and operated in accordance with the following requirements:
  - The Planning Committee must contain no fewer than 11 Members and no more than 21 Members, but no more than 50% of the Authority Members (rounded up to the nearest whole number).
  - Where Wards have more than one Elected Member, only one Member may sit on the Planning Committee, in order to allow other Ward Members to perform the representative role for local community interests.
- 1.4 Whilst the second bullet point above does not apply to a Local Authority that comprises solely of multiple Member Wards (due to the need to maintain political balance on the Committee), the Vale of Glamorgan Council is one of the Councils to which both of the above provisions do apply.
- 1.5 In addition to the above, the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017 provide that each meeting of the Planning Committee must have a quorum of 50% to make decisions, and;
- 1.6 The use of substitute Members is prohibited.
- 1.7 Planning Committee meetings should be 4 hours maximum, with the Chair having discretion to conclude an agenda (or individual agenda item) if part way through, if considered to be in the best interests of the Committee and the decision making process.
- 1.8 Where necessary in order to progress a matter of Corporate, Strategic or Public importance, a special meeting of the Planning Committee may be convened at any time, by agreement of the Chair of the Committee, and/or Chief executive.
- 1.9 Site visits for the Planning Committee will usually take place on the day of the Planning Committee, in accordance with the guidance set out in the Vale of Glamorgan Council Planning Protocol (section 14).

### 2. Functions and Role of the Planning Committee

#### With Delegated Powers:

- 2.1 To deliver functions relating to the delivery of the Land Use Planning system in the Vale of Glamorgan.
- 2.2 To carry out the Authority's statutory planning functions in relation to the determination of applications, enforcement matters and other allied Planning issues relating to development and the regulation of uses of land, as specified in the

Council's Constitution- Section 26 (Officer Delegations) relating to the Director of Place, Head of Sustainable Development and Operational Manager for Planning and Building Control.

- 2.3 To consider and determine applications and related Planning matters in line with all relevant national and local planning policy, so as to advance and contribute to the Council's Corporate Strategy and Priorities, in the wider public interest, and actively work towards achieving the key well-being objectives in the Council's Corporate Plan:
  - Creating Great places to live and work.
  - Respecting and celebrating the environment.
  - Giving everyone a good start in life.
  - Supporting and protecting those who need us.
  - Being the best council we can be.
- 2.4 To make planning decisions based on sound material planning considerations, and not personal circumstances, opinions or feelings, and to ensure that decisions are not affected by bias, or 'interests' which would prevent or be perceived to prevent fair and objective consideration of the Planning matter in question.
- 2.5 To take into account and promote the sustainable development principle in determining planning applications, enforcement issues and related planning matters.
- 2.6 To ensure that all Committee made decisions comply with the Well-being of Future Generations (Wales) Act 2015, assist towards achieving the 7 Well-being Goals (a prosperous Wales, A resilient Wales, A healthier Wales, A more equal Wales, A Wales of more cohesive communities, a Wales of vibrant culture and thriving Welsh language, and a globally responsible Wales) and are embed the 5 ways of working of Long term, Integration, Involvement, Collaboration and Prevention.
- 2.7 To ensure that all Committee made decisions comply with The Council's Equality Policy, Strategic Equality Plan and the Equality Act 2010, including the Public Sector Equality Duty and the specific duties for Wales.
- 2.8 To receive and consider reports from time to time from the Chief Executive, Senior Officers in the Directorate of Place (and other Officers) regarding the exercise of any functions relating to the control of development which may have been delegated to them.



### **DIRECTOR OF PLACE, HEAD OF SUSTAINABLE DEVELOPMENT, OPERATIONAL MANAGER (PLANNING AND BUILDING CONTROL) AND, ONLY WHERE INDICATED, PRINCIPAL PLANNING OFFICERS**

#### **1. BUILDING CONTROL**

1.1 To apply for an order under Section 22 of the Building Act 1984 (as amended) and to execute works in default thereof after consultation with the Head of Legal and Democratic Services.

1.2 With other nominated Officers:

a) to carry out works in default and recover the costs in the event of non-compliance of notices issued under the Building Act 1984 (as amended);

b) to enter into agreement with the owner or occupier of any premises and carry out at his expense any work he is required to carry out by the Local Authority under the Building Act 1984 (as amended), or any work in connection with the construction, lay, alteration or repair of a sewer or drain that he is entitled to carry out.

1.3 To review and set level of charges relating to general building control matters in accordance with the Building (Local Authority Charges) Regulations 2010 on an annual or more frequent basis should market trends dictate and to issue the required notice and financial statements at the end of each financial year in consultation with the relevant Cabinet Member.

1.4 To determine building regulation applications submitted in accordance with the relevant provisions of the Building Act 1984 (as amended).

1.5 To issue, vary or revoke any notice under the Building Act 1984 (as amended) and to exercise the Council's powers of enforcement and prosecution under the Building Act 1984 (as amended) in respect of any failure to comply with the terms of a Notice issued.

1.6 To sell materials from demolished buildings in accordance with the provisions of Section 100 of the Building Act 1984 (as amended).

1.7 To implement the Building Regulations.

1.8 To determine applications for the relaxation and dispensation of Building Regulations.

1.9 To issue, vary or revoke a Notice under section 29 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) for the protection of buildings and to exercise the Council's powers of enforcement and prosecution under the 1982 Act in respect of any failure to comply with the terms of a section 29 Notice issued.

#### **2. LISTED BUILDINGS etc.**

2.1 To determine grant applications under the Historic Buildings Grants Programme.

2.2 To serve an Article 4 Notice to prevent development and / or demolition that may otherwise be permitted development.

### 3. PLANNING APPLICATIONS etc.

3.1 To determine all applications made under planning legislation (*including applications for planning permission [full and outline], Reserved Matters, advertisement consent, Minerals applications, EIA Screening and Scoping, Listed Building consent, Conservation Area consent, Hazardous Substances consent, the discharge of planning conditions, Non Material Amendments, works to trees protected by Tree Preservation Orders, notifications of works to trees located within Conservation Areas, applications for Lawful Development Certificates, Hedgerow Removal, variations of Legal Agreements, Local Impact Reports relating to Developments of National Significance, and any determinations (including granting consent) in relation to prior approval/permitted development rights under the General Permitted Development Order [including but not limited to telecommunications, demolition and agricultural determinations]* except the following, where determination shall be referred to the Council's Planning Committee:

- a) Applications contrary to the provisions of the Development Plan, where recommended for approval.
- b) Applications for outline or full planning permission where the development is defined as 'major' development in Article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended or modified by subsequent legislation) and where the site does not already benefit from an extant consent (outline or full) for a similar type and scale of development.
- c) Applications for Environmental Impact Assessment (EIA) Development (not including screening and scoping applications).
- d) Applications submitted by any Officer involved in the planning process or a Councillor of the Vale of Glamorgan Council. An Officer is involved in the planning process if they are a member of staff in the planning section, or involved in enforcing planning matters, or giving advice or support to Officers or Councillors involved in the planning process or could be perceived to be involved in, or responsible for, the planning process;
- e) Applications where an Elected Member has requested that an application be determined by the Planning Committee, giving planning reasons for that request, in accordance with the following procedure;

*Where any Member of the Council requires that a particular application shall be determined by the Planning Committee, the application will be referred to the Committee for consideration subject to the Member contacting a Principal planning Officer, Operational Manager for Planning and Building Control or Head of Sustainable Development within 21 days of a formal consultation/re-consultation on the application and such request being substantiated by a good planning reason or demonstration that strong local objections had been received and in the case of a difference of opinion between the relevant officer and any Member the matter shall be referred to the Chair of the Planning Committee for consideration and a decision on the Member's request*

f) Applications which, while not falling within subsections a) to e) above, are considered by the Director of Place, Head of Sustainable Development or Operational Manager for Planning and Building Control to be of strategic importance and should, be determined by Planning Committee.

3.2 The following matters included within section 3.1 above may be determined by the Principal Planning Officers (Team Leaders): Householder Applications that are recommended for approval where there have been no objections made as a result of the consultation process, Applications for Non-Material Amendments, applications for the discharge and/or approval of details required by condition, applications for pre-application advice, EIA Screening and Scoping applications, consultations in respect of planning applications notified by adjacent Local Planning Authorities, and issuing a Notice under section 62ZA (Notice that an application does not comply with a validation requirement imposed under section 62) of the Town and Country Planning Act 1990 (as amended).

3.3 To instruct the Head of Legal and Democratic Services to draft and complete Section 106 legal agreements.

#### **4. MINERALS**

4.1 To discharge the functions of the Council to determine the following mineral planning matters (other than where they comprise 'Major Development':

a) Determination of details submitted in discharge of Part 19 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended), including:

i) Class A: Quarry processing plant;

ii) Class B: Ancillary plant e.g. ready mixed concrete and coating plants.

b) Applications for plant, machinery, offices etc., at quarries outside the scope of the 1995 Order, including retention of plant following the cessation of mineral working.

c) Applications for mineral exploration not permitted by Part 22 of 1995 Order 1995 (boreholes, seismic surveys etc.).

d) Applications for revised working schemes required by the Review of Mineral Sites set up by the Environment Act 1995 (as amended) (Schedules 13 and 14).

e) Applications for schemes in discharge of registered Interim Development Orders pursuant to the Planning and Compensation Act 1991 (as amended).

f) Amendments / variation to conditions of mineral permissions.

g) Schemes in discharge of conditions of mineral permissions.

h) Consultations by adjoining authorities on mineral working proposals in their areas.

i) Determination of the need for an Environmental Assessment to be submitted with any application (this is mandatory for mineral extraction areas greater than 2.5ha).

j) Amendment to, and determination of, details in discharge of requirements of Section 106 Agreements at quarries

## **5. ENFORCEMENT**

5.1 To investigate and resolve complaints of unauthorised development/breaches of Planning control, including issuing Planning Contravention Notices and Requisitions for Information, instigating prosecution proceedings, action under the Proceeds of Crime Act, taking direct action, removing and/or obliterating advertisements and placards, and/or resolving to take no further action where formal enforcement action is not considered expedient (where necessary by Instruction to the Head of Legal and Democratic Services).

5.2 By instruction to the Head of Legal and Democratic Services, to issue formal enforcement notices or similar\* under Planning and associated legislation, other than in the following cases, which shall be referred to Planning Committee:

a) Where the unauthorised development in question is defined as 'major' development in Article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended or modified by subsequent legislation).

b) Where the proposed enforcement action would result in the cessation of use of a residentially occupied building/unit.

5.3 By instruction to the Head of Legal and Democratic Services, to issue formal enforcement notices or similar\* under Planning and associated legislation in relation to matters covered by 5.2 b) and c) above, in instances where reference to the Planning Committee would result in detrimental delay to the ability of the Council to enforce the matter.

*\* Including but not limited to issuing: Enforcement Notices, Listed Building Enforcement Notices, Stop Notices, Temporary Stop Notices, Breach of Condition Notices, Breach of Condition Enforcement Notices, Enforcement Warning Notice, Notices under Section 215 of the Planning Act, Hedgerow Replacement Notices, Tree Replacement Notices.*

5.4 In consultation with the Head of Legal and Democratic Services, to authorise the variation or withdrawal of a previously issued Notice (as set out at \* in 5.3 above), to correct a defect or error or make such other minor variation as deemed necessary and to instruct the Head of Legal and Democratic Services to issue such amended notices, if appropriate.

## **6. TREES**

6.1 To instruct the Head of Legal and Democratic Services and Operational Manager (Legal Services) to make, revoke and vary Tree Preservation Orders under the Town and Country Planning Act 1990 (as amended).

6.2 To instruct the Head of Legal and Democratic Services and Operational Manager (Legal Services) to confirm a Tree Preservation Order made under the Town and

Country Planning Act 1990 (as amended) where there are no objections to the Order or where objections are subsequently withdrawn.

## **7. APPEALS**

7.1 In the circumstances where there is a change to the matters that are material to the Council's case, authority to amend or withdraw all or parts of the Council's case during the course of any Appeal made under the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), The Hedgerow Regulations 1997, the Town and Country Planning (Control of Advertisement) Regulations 1992, the Anti-Social Behaviour Act 2003 or the Town and Country Planning (Trees) Regulations 1992, subject to the matter being reported to the Planning Committee in due course.

## **8. RIGHTS OF ENTRY**

8.1 To authorise officers of the Council, in undertaking the Planning and Building Control functions, the right to enter land granted by virtue of the following legislation:

- Town and Country Planning Act 1990 (as amended) – Sections 196A, 196B, 196C, 324, 325 and 325A.
- Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) – Section 88.
- Building Act 1984 (as amended) – Sections 95 and 96