

STANDARDS COMMITTEE

Wednesday, 20th July 2022 at 6.30pm

Meeting to be held at Belle Vue Suite, Belle Vue Square, Skipton.

Committee Membership: The Chairman (Councillor Ireton) and Councillors Mercer, Metcalfe, Solloway and Whitaker.

Parish Council Representative (non-voting): Marion Swales.

Independent Persons (non-voting): John Boumphrey and Roger Millin.

Please note the following advice in advance of the meeting:

Whilst there is no longer a legal requirement to wear a face covering or continue to social distance, please be considerate towards the wellbeing of others.

Anyone showing Covid symptoms or feeling unwell, are asked not to attend an in-person meeting, this is in the interest of general infection control. Further guidance can be found at: <https://www.gov.uk/coronavirus>

AGENDA

1. **Apologies for Absence** – To receive any apologies for absence.
2. **Confirmation of Minutes** – To confirm the minutes of the meeting held on 2 March 2022.
3. **Public Participation** – In the event that any questions/statements are received or members of the public attend, the public participation session will proceed for a period of up to fifteen minutes.
4. **Declarations of Interest** – All Members are invited to declare at this point any interests they have on items appearing on this agenda, including the nature of those interests and whether they wish to apply the exception below.

Note: Declarations should be in the form of either:

- a “*disclosable pecuniary interest*” under Appendix A to the Code of Conduct, in which case the Member must leave the meeting room; or

- an “**other interest**” under Appendix B of the Code. For these interests, the Member may stay in the meeting room, although they must leave if membership of the organisation results in a conflict of interest.

Exception: Where a member of the public has a right to speak at a meeting, a Member who has a disclosable pecuniary interest or an other interest and must leave the room, has the same rights and may make representations, answer questions or give evidence, but at the conclusion of that, must then leave the room and not take part in the discussion or vote.

5. Work Programme 2022/2023 – Report of the Solicitor to the Council (Deputy Monitoring Officer)

Purpose of report – To consider and set the work programme for the 2022/2023 municipal year. Attached.

6. Parish Representatives – Report of the Solicitor to the Council (Deputy Monitoring Officer). Attached.

Purpose of report – To provide the Committee with an update on the appointment of Parish Representatives.

7. Planning Code of Good Practice for Members – Report of the Solicitor to the Council (Monitoring Officer). Attached.

Purpose of Report – To present a draft revised Planning Code of Good Practice for Members.

8. Monitoring Report – Report of the Solicitor to the Council (Monitoring Officer)

Purpose of report – To provide Members with an update on the number and progress of Code of Conduct complaints received.

9. Any other items which the Chairman decides are urgent in accordance with Section 100B(4) of the Local Government Act, 1972.

10. Date and Time of Next Meeting – 2nd November 2022.

Agenda Contact Officer:

David Smith, Democratic Services and Scrutiny Officer

E-mail: dsmith@cravendc.gov.uk

Recording at Council Meetings: Recording is allowed at Council, Committee and Sub-Committee meetings which are open to the public, subject to

- (a) the recording being conducted with the full knowledge of the Chairman of the meeting; and
- (b) compliance with the Council’s protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Agenda Contact Officer prior to the start of the meeting. Any recording must be conducted openly and not disrupt proceedings.

AGENDA ITEM 2

STANDARDS COMMITTEE

2 March 2022

Present – Councillors Ireton (Chairman), Mercer, Metcalfe, and Whitaker.

Independent Persons (non-voting): John Boumphrey and Roger Millin.

Parish Representative (non-voting): None.

Officers – Solicitor to the Council (Monitoring Officer), Solicitor to the Council (Deputy Monitoring Officer) (Virtual) and Democratic Services and Scrutiny Officer.

Apologies – Councillor Solloway, and Parish Representatives Councillor Balsamini and Councillor Swales.

Start: 6.30pm

Finish: 6.40pm

The minutes of the Committee's meeting held on 02 February 2021 were confirmed as a correct record.

Minutes for Report

STN.394

GUIDANCE ON LOCAL GOVERNMENT ASSOCIATION MODEL COUNCILLOR CODE OF CONDUCT

The Solicitor to the Council (Deputy Monitoring Officer) submitted a report which invited Members to note the Guidance on Local Government Association Model Councillor Code of Conduct.

The Solicitor to the Council (Deputy Monitoring Officer) highlighted that Craven District Council had not adopted the Model Code, but had reviewed its own Councillor Code of Conduct to ensure that it fitted the suggested criteria. Members and Independent Persons recognised that the guidance was something that could be used.

Resolved – That, the Guidance on Local Government Association Model Councillor Code of Conduct is noted.

STN.395

A GUIDE TO COUNCIL BUSINESS AND PUBLICITY DURING THE PRE-ELECTION PERIOD

The Solicitor to the Council (Deputy Monitoring Officer) submitted a report which invited Members to note the Guide to Council Business and Publicity During the Pre-Election Period.

The Solicitor to the Council (Deputy Monitoring Officer) updated Members on the commencement dates of the pre-election periods and highlighted that the report was presented to Members as a reminder of the restrictions that apply during elections. The Solicitor to the Council (Deputy Monitoring Officer) highlighted that this advice would be distributed to all Members and Officers. Members were pleased to hear that the Structural Order was still on course for 17th March 2022 and the Solicitor to the Council (Deputy

AGENDA ITEM 2

Monitoring Officer) informed Members that if this was not passed, any unscheduled elections would not go ahead.

Resolved – That, the Guide to Council Business and Publicity During the Pre-Election Period is noted.

STN.396

MONITORING REPORT

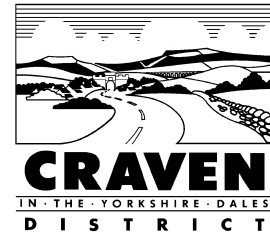
The Solicitor to the Council (Monitoring Officer) submitted a report which updated Members on the Code of Conduct complaints received.

The Solicitor to the Council (Deputy Monitoring Officer) updated Members on complaint 2022/01, reporting that the Decision Notice had been issued on 1 March 2022 and no further action was required as the Councillor had resigned. A verbal update was given to Members.

Resolved – That, the Monitoring Report to date is noted.

Chairman

STANDARDS COMMITTEE
20 July 2022



Work Programme 2022/2023

Ward(s) affected: All

Report of the Solicitor to the Council and Monitoring Officer

1. **Purpose of Report** – To consider and set the work programme for the 2022/2023 municipal year.
2. **Recommendations** – Members are recommended to:
 - 2.1 Note the work of the Committee during 2021/2022; and
 - 2.2 Agree the Committee’s work programme for 2022/2023.
3. **Report**
 - 3.1 At the first meeting of the municipal year, this Committee has routinely set its work programme for the coming year. This enables the Committee to take a structured approach to reviewing the local codes and protocols contained in the Council’s Constitution but also to have the flexibility to deal with new issues which may arise during the year.
 - 3.2 Despite the COVID19 pandemic continuing to have an impact on the work of the Council during the year, the Committee has completed the work programme set for 2021/2022. The table below summarises the key work of the Committee during the year:

Review of the Whistleblowing Policy	Completed
Review of the Probity in Planning Guidance	On the agenda

- 3.3 The Committee has also received the annual letter from the Local Government and Social Care Ombudsman and undertaken Hearings Panel training.
- 3.4 The Committee will continue to seek to maximise inclusivity in all policy reviews it undertakes and keep a watching brief on local government organisation.

3.5 Both the Members' and Officers' Codes of Conduct have recently been reviewed along with the Member and Officer Protocol (2020). However, it is some time since the 'Arrangements for Hearings' were reviewed.

3.6 Members are asked to consider the Committee's Terms of Reference (attached at Appendix A) and set the work programme for the coming year.

3.7 In addition to the work programme, the Committee may receive unscheduled items from time to time and sub-committees may be constituted on an ad-hoc basis to deal with hearings in relation to member conduct.

4. **Financial and Value for Money Implications**

There are no financial implications arising from the recommendations in this report.

5. **Legal Implications**

There are no legal implications arising from the recommendations in this report.

6. **Contribution to Council Priorities**

6.1 The promotion and maintenance of high standards of conduct by the elected and co-opted Members of Craven District will assist the Council in achieving its priorities.

6.2 **Impact on the declared Climate Emergency** - no implications for the declared Climate Emergency.

7. **Risk Management**

7.1 The risk to the Council in not having in place a robust local standards regime could damage its reputation for good governance and undermine public confidence in the Council.

7.2 **Chief Finance Officer (s151 Officer) Statement** – no additional comments.

7.3 **Monitoring Officer Statement** – no additional comments.

8. **Equality Analysis**

The Council's Equality Impact Assessment procedure does not apply to this report as there are no changes to any policy.

9. **Consultations with Others**

None

10. **Background Documents**

None

11. **Appendices**

Appendix A – Terms of Reference for Standards Committee

12. **Author of the Report**

Annette Moppett, Solicitor to the Council (Monitoring Officer)

Telephone: 01756 706325

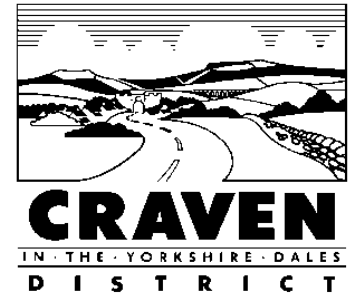
E-mail: amoppett@cravendc.gov.uk

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

COMMITTEE	<u>STANDARDS COMMITTEE</u>
MEMBERSHIP	5 District Councillors, 4 parish representatives and 3 independent persons (12 in total)
LEAD OFFICERS	Monitoring Officer
SUB-COMMITTEES	Will be constituted on an ad hoc basis to deal with hearings in relation to member conduct
<p>TERMS OF REFERENCE</p> <ul style="list-style-type: none"> • To review, at least every two years, the Council's Member / Employee Protocol and Codes of Conduct, the Planning Protocol, and any other local codes and protocols, and to recommend changes to the Council Meeting • To consider other areas where there may be a need for local codes or protocols and make appropriate recommendations to the Council • To monitor the operation of the codes and protocols and to advise Members individually (as requested) and as a whole on the codes and protocols • To grant dispensations to Members as provided for by the Localism Act 2011 and regulations made thereunder • To deal with complaints relating to a breach of the Members Code of Conduct and to appoint sub-committees, as required on an ad hoc basis to hear complaints following investigation. • To advise the Parish Councils on the adoption or revision of their Codes of Conduct, to monitor their operation and to advise on matters relating to their Codes • To ensure the provision of effective training on Members' interests and Code of Conduct issues for Members of the District Council and the Parish Councils in the Craven District • To receive and deal with reports resulting from Ombudsman complaints • To be consulted when reviews are carried out of elements of the Council's Constitution that relate to the ethical framework 	

STANDARDS COMMITTEE – 20 July 2022

Parish Representatives



Report of the Solicitor to the Council (Monitoring Officer)

Ward(s) affected: All

1. Purpose of Report

1.1 To provide the Committee with an update on the appointment of Parish Representatives.

2. Recommendations – Members are recommended to:

2.1 Note the contents of the report and decide what action, if any, to take.

3. Report

Background

3.1 As Members will know, the Committee is comprised of five District Councillors, each with voting rights, together with up to four co-opted Parish Representatives (non-voting). The Committee is also supported by three Independent Persons.

3.2 There has been a number of parish vacancies for some time however, after reviewing the number of Parish Representatives appointed to Standards Committee, the Committee concluded in March 2021 that the number should remain at four.

3.3 In December 2020, Settle Town Councillor Dan Balsamini was appointed as a Parish Representative until the Annual Council Meeting in 2024.

3.4 Following an invitation to all parish and town councils in the district to submit nominations, Bentham Town Councillor Marion Swales was subsequently appointed as a second Parish Representative for a two-year term from May 2021.

Report

3.5 Town Councillor Balsamini did not stand for re-election this year and has resigned as a Parish Representative on this Committee. Consequently, the Committee is again left with one Parish Representative.

3.6 Although they do not have a vote, Parish Representatives participate fully in the business of the Committee. With 37 parish and town councils in the District of Craven and up to 270 councillors, it is important that the parish councils are represented on the Committee. The Parish Representatives also have an important role in the agreed 'Arrangements for Dealing with Code of Conduct Complaints' when the complaint relates to the conduct of a parish councillor.

3.7 With vesting date for the new North Yorkshire Council set for 1 April 2023, Members are asked to consider what action, if any, they wish to take to fill the three vacancies.

4. Financial and Value for Money Implications

4.1 None arising directly from the content of this report.

5. Legal Implications

5.1 None arising directly from the content of this report.

6. Contribution to Council Priorities

6.1 The promotion and maintenance of high standards of conduct by the elected and co-opted Members of Craven District will assist the Council in achieving its priorities.

6.2 There are no implications for the declared Climate Emergency.

7. Risk Management

7.1 The risk to the Council in not having in place a robust local standards regime could damage its reputation for good governance and undermine public confidence in the Council.

8. Equality Impact Analysis

8.1 The Council's Equality Impact Assessment procedure does not apply to this report as no change to policies are proposed.

9. Chief Finance Officer (s151 Officer) Statement – no additional comments.

10. Monitoring Officer Statement – no additional comments.

11. Consultations with Others

11.1 Not applicable.

12. Background Documents

12.1 None

13. Appendix – none.

14. Author of the Report

Name: Annette Moppett, Solicitor to the Council (Monitoring Officer)

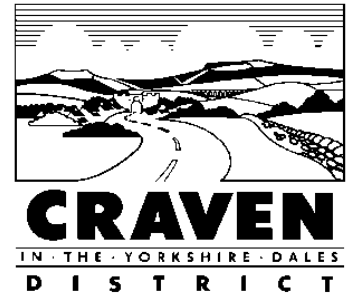
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Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

**STANDARDS COMMITTEE –
20 July 2022**

**Planning Code of Good Practice for
Members**



Report of the Solicitor to the Council (Monitoring Officer)

Ward(s) affected: All

1. Purpose of Report

1.1 To present a draft revised Planning Code of Good Practice for Members.

2. Recommendations – Members are asked to:

2.1 Recommend that Council adopt the revised Planning Code of Good Practice for Members.

3. Report

Background

3.1 Members may recall that in 2017 this Committee undertook an extensive review of the 'Planning Good Practice for Members Guidance.' This resulted in the Council adopting an updated version of the Guidance which included a requirement that Members report lobbying (for or against) an application and/or enforcement matter at Planning Committee.

3.2 In 2020, a Peer Review of the Planning Service highlighted a number of issues to be addressed and which led to the formation of a Planning Improvement Board and the appointment of a Lead Member for Planning.

3.3 The Planning Improvement Board has reviewed the 'Planning Good Practice for Members Guidance' and having consulted Audit and Governance Committee, is presenting a draft revised 'Planning Code of Good Practice for Members' (the 'Planning Code'), for consideration.

Report

3.4 A copy of the report to Audit and Governance Committee is attached at Appendix A.

3.5 The most significant amendment is the proposal to introduce Member engagement in the pre planning application stage of the planning process,

which is encouraged by Government guidance and is also the subject of advice published by the Planning Advisory Service.

3.6 Audit and Governance Committee considered the proposals at a meeting on the 27 June 2022. The Committee's comments are summarised below:

- It was recognised that the suggested pre-application process would allow for more transparency, emphasising that the public perception of the Council is important and should only be improved.
- It was understood that there is a limit to what the suggested process can achieve in the District Council's final months, but Members hoped that a similar process would be considered by the new authority, although noted that this could not be guaranteed.
- Concerns were raised about increasing the burden on the Planning Service however, the Strategic Manager highlighted that introducing this process would help to reduce the number of issues further down the line.
- Concerns were also expressed about whether the proposal, if adopted, could call into question the integrity of Council Members and Officers.
- It was recognised that if adopted, appropriate training for both Members and Officers would be essential.

3.7 Members are asked to consider the revised Planning Code and recommend that Council adopt it.

4. Financial and Value for Money Implications

4.1 None arising directly from the content of this report.

4.2 The re-introduction of the pre-application process will result in additional income for the Council.

5. Legal Implications

5.1 None arising directly from the content of this report.

6. Contribution to Council Priorities

6.1 The promotion and maintenance of high standards of conduct by the elected and co-opted Members of Craven District will assist the Council in achieving its priorities.

6.2 There are no implications for the declared Climate Emergency.

7. Risk Management

- 7.1 The changes to the pre-application process aim to improve the overall performance of the planning process by processing applications in a timelier manner and to provide clarity to the process.

8. Equality Impact Analysis

- 8.1 The Council's Equality Impact Assessment has not been completed as the proposed amendments to the Planning Code do not have the potential to cause negative impact or discriminate against different groups in the community based on age, disability, gender, race/ethnicity, religion or religious belief (faith), sexual orientation or rural isolation.

9. Chief Finance Officer (s151 Officer) Statement – no additional comments.

10. Monitoring Officer Statement – no additional comments.

11. Consultations with Others

- 11.1 Planning Improvement Sounding Board

12. Background Documents

- 12.1 None

13. Appendices

Appendix A – Report to Audit and Governance Committee (27 June 2022)

14. Author of the Report

Name: Annette Moppett, Solicitor to the Council (Monitoring Officer)

Telephone: 01756 706325

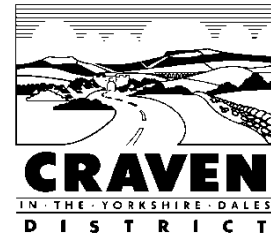
E-mail: amoppett@cravendc.gov.uk

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

AGENDA ITEM 7 – APPENDIX A

Audit and Governance 27th June 2022

Introduction of Member engagement with pre-Application Enquiries



Report of the Director of Services

Lead Member –Cllr Simon Myers

Ward affected: All Wards outside of the Yorkshire Dales National Park

1. Purpose of Report

- 1.1 To seek approval to introduce a new process to enable Members to engage in the planning pre-application process.

2. Recommendations

- 2.1 To agree that the proposed revised Code of Good Practice is considered by the Scrutiny Committee on 20 July 2022
- 2.2 To agree the proposed Member Engagement with Pre-applications process
- 2.3 That delegation to the Strategic Manager for Planning and Regeneration to make minor amendments in consultation with the Chair of Audit and Governance.

3. Background

- 3.1 The early participation of elected members at the pre-application stage of the planning process is strongly encouraged in Government guidance, especially on major development proposals. The Planning Advisory Service (PAS) has published advice on elected member engagement in pre-application discussions in their Pre-application Suite. Their advisory report states:

'Early and proactive engagement in discussions from ward members and planning portfolio holders helps developers to shape major schemes even before they get to the drawing board. Leaders and portfolio holders in particular may need to act as managers of council assets acting as partners in the delivery of some strategic developments – balancing an asset management role with civil leadership and representing the interests of constituents. They are able to use their position as local leaders to aid important developments that will realise their aspirations for the area.'

AGENDA ITEM 7 – APPENDIX A

- 3.2 Section 25 of the Localism Act 2011 provided greater clarity on the matter of pre-determination by allowing a councillor to participate in a decision on a matter simply because they have previously expressed a view or campaigned on it. The effect of the change was that councillors may campaign and represent their constituents – and then speak and vote on those issues – without fear of breaking the rules on pre-determination.
- 3.3 However, the PAS advice goes on to emphasise the approach taken to member engagement at the pre-application stage needs to be proportionate to the scale and complexity of the purposed development.
- 3.4 The introduction of Members into the pre-application process is not widespread and we are unaware of any North Yorkshire Local Planning authority with procedures currently in place. Such arrangements have been introduced by Kirklees Council and these, together with guidance from the PAS, has been helpful in shaping the proposals.
- 3.5 The proposals contained within this report were initially discussed by the Planning Committee in September last year and subsequently considered by the Planning Sounding Board as well as the Planning Improvement Board. The opportunity for early engagement with the Council through pre-application enquiries was withdrawn a year ago to ensure the focus was on getting planning applications determined. With the significant improvements that have taken place in the Planning service it is envisaged that if the recommendations of this report are accepted then the pre-application service incorporating the opportunity for member involvement can be introduced in September. This will also give opportunity for the new arrangements to be in operation before Local Government re-organisation and for them to be submitted as a suggestion for a future model for the new North Yorkshire Council.

4. Proposed Changes

- 4.1 The proposal is to provide a staged approach that allows an appropriate balance of Member involvement with the scale and complexity of an application. The four levels presented below are given in greater detail in Annex 1.

The four levels are:

Level 1: Notification of enquiries to Ward Councillors, Planning Committee Chair and Lead Member

Level 2: Elected member briefings by officers

AGENDA ITEM 7 – APPENDIX A

Level 3: Briefings with developer/promoter

Level 4: Open Developer Forums

It is anticipated that the number of applications that fall into levels 3 and 4 will be approximately five per year with the majority being in levels 1 and 2.

4.2 The Council's Local Planning Code takes account of the changes contained in Section 25 of the Localism Act 2011, but it does not expressly provide for Members to engage early in the planning process. The aim of the code of good practice is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. Therefore, introducing arrangements for Member participation in pre-application enquiries require changes to the Planning Code.

4.3 The Code of Good Practice amendments are at Annex 2 and changes are shown in italics for new text and crossed through text for deletions. The key changes include:

- How Members engage with applicants and agents
- The role of the officer in supporting and advising Members
- The requirements for the Member not to advise the applicant
- The provision of information and the role of confidentiality
- How Members feed in their views to the pre-application process
- Provides for Open Forums on larger scale proposals where developers will have the opportunity to present proposals to elected members, local councils, and the public.

5. Implications

5.1 Financial Implications

There are no financial implications arising from this report.

The reintroduction of the pre-application process will result in an income stream.

5.2 Legal Implications

There are no legal implications arising from this report.

6. Contributions to Corporate Priorities

AGENDA ITEM 7 – APPENDIX A

The proposals in this report support the Council priority of “Supporting the Well-being of our Communities”.

6.2 Impact on the declared Climate Emergency

This report does not have a negative impact on climate change.

7. Risk Management

The changes to the pre-application process aim to call-in process aim to help improve the overall performance of the planning process by processing applications in a timelier manner but also provide clarity to the process

8. Chief Finance Officer (s151 Officer) Statement

9. Monitoring Officer Statement

10. Consultation with Others

Planning Improvement Sounding Board

11. Appendices

Annex 1 - Arrangements for Member Engagement with Pre-Application Enquiries

Annex 2 - Planning Code of Good Practice for Members

13. Author of the Report

David Smurthwaite, Strategic Manager, Planning and Regeneration
dsmurthwaite@cravendc.gov.uk 01756 706409

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Annex 1

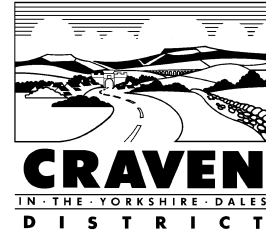
Arrangements For Member Engagement with Pre-Application Enquiries

Level of Engagement	Appropriate Scale of Proposal	How it would operate
<p>Level 1 Notification of pre-application enquiries to Ward Councillors, Planning Committee Chair and Portfolio Holder</p>	<p>This notification would apply to all pre-application enquiries received.</p>	<p>Weekly notifications to members containing basic details of any pre-application enquiries received for sites in their ward.</p> <p>The Chairman of the Planning Committee would receive a weekly list of all enquiries received.</p> <p>Members could contact case officers to gain more detail of what the enquiry related to. If a member wishes to express their views on a matter the subject of the Pre-Application enquiry they would do so in writing, sent to the relevant Planning Officer within a specified timeframe.</p>
<p>Level 2 Elected member briefings by officers</p>	<p>These briefings are primarily intended for smaller scale developments such as changes in the use of premises or developments of a small number of new homes. However, they could also be a useful precursor to a consideration as to whether an enquiry should be escalated to Level 3 and 4. The use of such briefings for householder extensions and other modest proposals would be discouraged as they would impact on response timescales.</p>	<p>These would be informal presentations to ward members on specific pre-application enquiries. They would be held at the request of a ward member or the Chairman of the Planning Committee and requests for a briefing meeting would need to be made within a specified time frame to ensure the impact on timely responses to the enquirer was not delayed.</p>
<p>Level 3</p>	<p>It is considered that these briefings would only be appropriate for larger scale or</p>	<p>As part of the Pre-Application discussions a developer may wish to engage with ward members. This would be through a meeting with a Planning</p>

AGENDA ITEM 7 – APPENDIX A

<p>Briefings with developer in attendance</p>	<p>potentially controversial proposals.</p>	<p>Officer present. The decision as to whether a Ward Member attends such a meeting would rest with the Member. A full note of the meeting would need to be placed on the pre-application file and that file (as with other pre-application files) would become public upon submission of the related planning application.</p>
<p>Level 4 Open Developer Forum</p>	<p>These would be appropriate for the larger and potentially controversial proposals.</p>	<p>The decision on whether to agree to a request for a presentation would rest with the relevant planning lead officer following consultation with the Chairman of the Planning Committee. Any such presentation will be open to the public and public notice of the presentation shall be given. A presentation by a developer would be made in an open forum to explain their development proposals. Elected members would then have opportunity to raise questions in connection with the proposals. It is envisaged there would only be a few Open Forums and it is advised that they would need to be held at a convenient time for all parties concerned. It is suggested that weekday evenings be considered rather than a time during the working day. Such Open Forums could also take place in locations more convenient to the site of the proposal, this could be village or town halls.</p>

Planning Code of Good Practice for Members



Introduction

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

The key purpose of Planning; is to regulate *the development and use of land in the public interest.*

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

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

At the Council meeting on the 24th July, 2012 Craven District Council adopted the Code of Conduct which sets out the general principles and obligations of Members. The code also deals with the issue of declarations of disclosable pecuniary interests and personal interests. This Code of Good Practice is intended to explain and supplement the Code of Conduct in the context of planning control.

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with.
- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Monitoring Officer.

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2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.
- **Do** then act accordingly.

Where your interest is a disclosable pecuniary interest and you have not obtained a dispensation:-

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** try to represent ward views, get another Ward Member to do so instead.
- **Don't** get involved in the processing of the application.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable pecuniary interest or where you have a conflict of interest, or a financial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
 - **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable pecuniary interest or where you have a conflict of interest or financial interest to an appropriate officer, in person or in writing, the Code place limitations on you in representing that proposal. Standing Orders of the Council apply so you may address the Committee but only to make a presentation in the same manner than would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery).
- **Do** notify the Monitoring Officer in writing and note that:
 - ❖ you should send the notification no later than submission of that application where you can;
 - ❖ the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
 - ❖ it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee.

3. Fettering Discretion (being able to take part) in the Planning Process.

To protect the rights of planning applicants, and to preserve the integrity of Committee decisions it is vital that Members do not make up their minds before they have all the relevant material and arguments before them at the Planning Committee meeting. Members

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are able to feel pre- disposed towards a particular decision but must still be able to consider and weigh up relevant factors before reaching the final decision. Pre- determination applies when members minds are closed (or are reasonably perceived to be closed) to the consideration and weighing up of all the relevant factors. When pre- determination applies then that risks making the decision open to legal challenge.

Section 25 of the Localism Act has sought to clarify the law regarding pre-determination.

Section 25 applies where a decision by members is challenged on the grounds of “bias, predetermination or otherwise”

Section 25 states:

“A decision maker is not taken to have had , or appeared to have had , a closed mind when making a decision just because:

- (a) The decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to that matter, and
- (b) The matter was relevant to the decision”

Whilst Section 25 provides some assistance to Members on the extent to which they are entitled to express firm views on matters before a decision is made it still remains the case that Members must have an open mind at the time the decision is made which means listening to the views of officers, the representations of all parties and the deliberations at the committee meeting.

Don't make up your mind or appear to have made up your mind, on how you will vote on any planning matter until you have heard the Officer's presentation and evidence at the Planning Committee when the matter will be considered. This is particularly important if you are contacted by an external interest or lobby group. If you have made up your mind prior to the meeting and are not able to reconsider your previously held view, then you will not be able to participate in the determination of the matter by the Council because if you did take part in the discussion or vote it would put the Council at risk in a number of ways

- Firstly, it would probably in the view of the Local Government Ombudsman constitute maladministration
- Secondly the council could be at risk of legal challenge on a number of possible grounds
 - i) That there was a danger of bias and /or
 - ii) Pre-determination and/or
 - iii) A failure to take into account all of the relevant factors enabling the proposal to be considered,

You may take part in the debate on a proposal when acting as part of a consultee body i.e. a member on the county council/ town or parish council provided

- You make it clear during the discussion at the consultee body that;
 - i) Your views are expressed on the limited information before you
 - ii) You will reserve judgment and so remain impartial to make up your own mind on the proposal when it comes before the Council's Planning Committee when you will then listen to all the relevant information and form a view

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- You disclose your interest as member on the outside body when the Council's Planning Committee consider the proposal.

Where you have already made up your mind and have therefore declined to speak or vote on a proposal, you do not have to withdraw unless you have a disclosable pecuniary (or other interest) but you may prefer to do so to avoid any possible perception of influence .

- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (this is granted by the authority's standing orders or by the consent of the Chairman and Committee) where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:
 - advise the proper officer or Chairman that you wish to speak in this capacity
 - before commencement of the item;
 - remove yourself from the member seating area for the duration of that item; and
 - ensure that your actions are recorded.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural, or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers, or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the ~~Development Control Manager~~ *Strategic Manager. Planning and Regeneration* to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the ~~Development Control Manager~~ *Strategic Manager. Planning and Regeneration* any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

Pre-Application engagement with prospective applicants and developers

The National Planning Policy Framework recognises the value of and encourages Pre-Application discussions between Local Planning Authorities and developers. The NPPF notes that the more issues that can be resolved at pre-application stage, the greater the benefits, and advises Local Planning Authorities to encourage developers to take up any pre-application services offered.

The Human Rights Act requires a fair and impartial tribunal to determine the rights of individuals. This applies to the work of Councils' Planning Committee.

If a balance is to be struck between impartiality and the wish to be seen as engaged, positive, open, and transparent, Members need to exercise caution in engaging with

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Applicants. In engaging with Applicants, the principles of this Planning Code of Good Practice should remain in the forefront of the Members' minds.

The first principle is that if a member, particularly of the Planning Committee, expresses an opinion or argues strongly in favour of or against an application prior to it being considered by Committee, they should take no part in the determination of the application. The second issue, particularly for Members of the Planning Committee is that the proper place for the determination of an application is at the Planning Committee once they have heard all the evidence and representations in relation to that application.

However, to enable Members to participate in pre-application discussions, Members should be aware of the distinction between giving and receiving information and engaging in negotiations in their discussions with Applicants or their agents regarding planning proposals, legal agreements, or any other planning matters.

However, it would be easy for such discussions with Members to become or be seen (especially by objectors) to become, part of a lobbying process. In order to avoid such perceptions, pre-application discussions should take place within clear guidelines. As a general principle, Members should, where appropriate, seek to encourage promoters of development schemes to engage in the Pre-Application process.

The following guidelines have been adopted by the Council to govern such discussions: Promoters of development schemes wishing to engage in Pre-Application discussions will be advised that: -

- (a) if they wish to secure Member input into the Pre-Application discussions, they can request that the relevant Ward member attend a meeting subject to a Planning Officer present. The decision as to whether or not a Ward Member attends such a meeting rest with that Member.*
- (b) Where the relevant ward member has agreed to attend a meeting with a prospective applicant or developer they will be advised by the appropriate professional officers of the Council, which will always include a senior planning officer. Members should not seek to advise applicants or their agents on the likely acceptability of planning proposals. The involvement of Councillors in such discussions will be recorded as a written file record.*
- (c) The Chairman and Vice Chairman of the Planning Committee may attend any meeting for Pre-Application discussions.*
- (d) Although (subject to the Environmental Information Regulations Act and any other relevant legislation) the Council will respect the confidentiality of information which the scheme promoter makes clear is disclosed in confidence, Members will have access to Council files on Pre-Application discussions.*
- (e) The weekly list of Planning applications circulated to elected Members will include new requests for Pre-Application advice.*
- (f) If a member wishes to express their views on a matter the subject of Pre-Application discussions, they may set out those views in writing sent to the relevant Planning Officer who will place a copy of the communication from the Member on the Pre-Application file. Members should be aware that such comments may in due course become publicly available.*
- (g) Members should not disclose any confidential information or documents held on Pre-Application files other than to another Member or to an officer of the Council.*

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- (h) *That should a planning application be subsequently submitted the written pre-application advice will be made public, including publishing it online with the application documents.*

Presentations by applicants/developers where the subject of a pre-application enquiry

On occasions those who have submitted a pre-application enquiry may wish to give a presentation to Members to explain their development proposals and/or to provide an opportunity for Members to raise questions in connection with the proposals. The decision on whether to agree to a request for a presentation rest with the Strategic Manager, Planning and Regeneration following consultation with the Chairman (or in his/her absence the Vice-Chairman of the Planning Committee) who will have regard to the likely public interest in reaching their decision on any such request.

Public Notice of an Open Forum shall be given, and the relevant Parish/Town Council invited. Such Open Forums will be chaired by the Chairman of the Planning Committee, but it does not constitute a meeting of the Committee. The purpose of the Open Forum is to provide the applicant/developer with opportunity to explain their development proposals and for elected members and representatives from Local Councils to raise questions in connection with the proposals. It is at the discretion of the Chairman as to whether other parties in attendance are given opportunity to ask questions of those making the presentation. It is envisaged there would only be a few Open Forums and it is advised that they would need to be held at a convenient time and location for all parties concerned.

In addition, in respect of presentations by applicants/developers:

Presentations by applicants/developers on matters that are not the subject of pre-application enquiries by applicants/developers:

- ***Don't*** attend a planning presentation unless a planning officer is present ~~you are accompanied by a planning officer~~ or it has been organised by officers.
- ***Do*** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- ~~***Do*** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.~~
- ***Do*** be aware that a presentation is a form of lobbying, and you must not express any strong view or state how you or other Members might vote *or convey the impression that you have any authority from the Council.*

5. Lobbying of Councillors

- ***Do*** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to

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vote one way or another or such a firm point of view that it amounts to the same thing.

- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group, or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register of interests where its value is over £25 (in accordance with the authority's rules on gifts and hospitality).
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.
- **Do** promptly refer to the ~~Development Control Manager~~ *Strategic Manager, Planning and Regeneration* any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable pecuniary interest and have not obtained a dispensation, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
 - listening or receiving viewpoints from residents or other interested parties; making comments to residents, interested parties, other Members, or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

6. Lobbying by Councillors

- **Don't** lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion. This does not prevent you from joining general interest groups which reflect your areas of interest, and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society. You will need to declare an interest where that organisation has made representations on a particular proposal and make it

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clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal

- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications, and specific site factors need to be carefully addressed.
- **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on-site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias
 - unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the ~~Development Control Manager~~ *Strategic Manager. Planning and Regeneration* about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

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- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the ~~Development Control Manager~~, *Strategic Manager. Planning and Regeneration* which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.

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- **Do** have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision.

These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

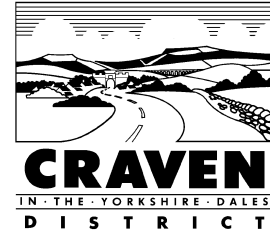
- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge 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.
- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

Supporting Documents to this Code

~~Probity in Planning : Revised Guidance Note on Good Planning Practice for Members and Officers Dealing with Planning Matters published by the Local Government Association; and Positive Engagement: A Guide for Planning Councillors~~

- Planning Advisory Service Pre-Application Suite
<https://www.local.gov.uk/sites/default/files/documents/pre-application-suite-3e1.pdf>
- Probity in Planning, Advice for councillors and officers making planning decisions' Local Government Association (LGA) (December 2019)
https://www.local.gov.uk/sites/default/files/documents/34.2_Probity_in_Planning_04.pdf
- 'Probity and the Professional Planner', Royal Town Planning Institute (RTPI) (January 2020)
https://www.local.gov.uk/sites/default/files/documents/34.2_Probity_in_Planning_04.pdf

**Standards Committee -
20 July 2022**



MONITORING REPORT

Ward(s) affected: All

Report of the Solicitor to the Council

1. **Purpose of Report** – To provide Members with an update on the number and progress of Code of Conduct complaints received.
2. **Recommendations** – Members are recommended to:
 - 2.1 Note the contents of the monitoring report.
3. **Report**
 - 3.1 The usual monitoring report is attached at Appendix A, updated to show new complaints received and progress made. A verbal update will be provided at the meeting.
 - 3.2 Local Government reorganisation is continuing to have an impact on the work of the Council and unfortunately, this does mean that timescales set out in the agreed ‘Arrangements for Dealing with Complaints’ will not always be met.
4. **Financial and Value for Money Implications**

There are no financial implications arising from the recommendation in this report.
5. **Legal Implications**

There are no legal implications arising from the recommendation in this report.
6. **Contribution to Council Priorities**
 - 6.1 The promotion and maintenance of high standards of conduct by the elected and co-opted Members of Craven District will assist the Council in achieving its priorities.
 - 6.2 **Impact on the declared Climate Emergency** - no implications for the declared Climate Emergency.

7. Risk Management

7.1 The risk to the Council in not having in place a robust local standards regime could damage its reputation for good governance and undermine public confidence in the Council.

7.2 **Chief Finance Officer (s151 Officer) Statement** – no additional comments.

7.3 **Monitoring Officer Statement** – no additional comments.

8. Equality Analysis

The Council's Equality Impact Assessment procedure does not apply to this report as there are no changes to any policy.

9. Consultations with Others

None

10. Background Documents

None

11. Appendices

Appendix A – Monitoring Report

12. Author of the Report

Annette Moppett, Solicitor to the Council (Monitoring Officer)

Telephone: 01756 706325

E-mail: amoppett@cravendc.gov.uk

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

AGENDA ITEM 8

Date complaint received	Reference	Status	Alleged Breach
12 June 2020	2020/03	Decision Notice issued 3 August 2020. Referral for investigation. Investigator appointed 3 August 2020. Investigation report received 14 October 2021. Informal resolution concluded.	Town Council Obligations 1, 2, 3 & 5.
13 October 2021	2021/18	Decision Notice issued 2 December 2021. Referral for investigation. Final Investigation Report issued 22 March 2022. No further action.	Town Council Obligations 1, 2 and/or 3.
31 October 2021	2021/20	Decision Notice issued. No further action.	District Council Obligation 1 and/or 3.
4 February 2022	2022/01	Decision Notice issued 1 March 2022. No further action	Parish Council Obligation 2.1 and/or Obligation 5.1.