

Great Bedwyn Parish Council

The Planning Code of Good Practice

1. Why a 'Code of good Practice' is required

1.1. Great Bedwyn Parish Council is consulted by local Planning Authority, Wiltshire Council, on all planning applications. Any views expressed by the Parish Council will be taken into account by the Planning Authority before a decision is made, providing the points made are relevant to the determination of a planning application. The final decision is made by the Planning Authority not the Parish Council.

1.2. The key purpose of planning is to manage development in the public interest. However, concerns are sometimes expressed about the probity of councillors meeting developers, applicants and interest groups and then taking decisions on an impartial basis. The aim of this code of good practice is to ensure that in the planning consultations of Great Bedwyn there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. Your role as a member of the council is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. This Code of Good Practice has been prepared to help and guide you in this task.

2. When the Code of Good Practice applies:

2.1. This code applies to councillors at all times when involving themselves in the planning process. This includes not just the taking part in the planning committee meetings of the council, but on less formal occasions, such as meetings with officers, the public, pre-application and consultation meetings.

2.2. If you have any doubts about the application of this Code or Great Bedwyn Parish Council's Code of Conduct for Members to your own circumstances, and in particular where you may have a disclosable pecuniary interest in any planning matter, you should seek advice early, from the Proper Office, the Wiltshire Association of Local Councils or the Monitoring Officer at Wiltshire Council, whoever is appropriate.

3. Relationship to Great Bedwyn Parish Council's Members Code of Conduct:

3.1. The Members' Code of Conduct must be complied with at all times when you are acting in your capacity as a member or co-opted member. This Planning Code of Good Practice seeks to explain and supplement the Members' Code of Conduct for the purposes of planning. It provides helpful guidance for members. However, you are advised that if you do not abide by this Code of Good Practice, you may put yourself at risk of a complaint under the Members' Code of Conduct.

3.2. In the event of a conflict between this Planning Code of Good Practice and the Members' Code of Conduct the latter will prevail.

4. Development proposals and interests under the Members' Code of Conduct

4.1. It is a fundamental point of principle that those who have a significant interest in the outcome of a planning decision should not take part in the decision-making process, for example, Members may wish to make their own planning proposals, such as extending their own property or may have a business interest. Members should disclose the existence and

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nature of their interest at any relevant meeting, including informal meetings or discussions with officers and other members. Such interests should be declared at the start of the meeting.

4.2 The requirements for the registration and declaration of interests are set out in Great Bedwyn Parish Council's Members' Standing Orders and in the underlying legislation contained in the Localism Act 2011.

4.3 If you have a disclosable pecuniary interest in any planning matter you must not participate in any discussion of the matter or vote on it at the meeting of the Committee. In addition, you should not participate in the processing of the application or the making of any decision on the matter by the Council;

5. Bias and Predetermination

5.1 A planning decision may be challenged and ruled unlawful on the ground of bias. The test is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the member was biased. In particular, under the Council's Code of Conduct for Members, bias would occur if you place yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties.

5.2 The integrity of and public support for the planning process relies on members of planning committees making decisions that are open, transparent and above board. To participate in decision-making on planning matters, it is essential that you do not have a closed mind and that you make your final decision only when you have seen and heard all the evidence and arguments presented.

The Localism Act has helpfully clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Act makes it clear that a member is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A member is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

The general position, however, remains that, whatever their views, members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

6. Contact with applicants, developers and objectors

6.1. You can involve yourself as a councillor in discussions with developers and others about planning matters provided you keep to the following guidelines:

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- Where developers organise a public exhibition or display of their proposals, it is acceptable for you to visit to examine the proposals and ask questions of the developers to ensure that you are fully informed of the nature of the proposals. You may feed in your own and your local community's concerns and issues and engage in discussion. However, irrespective of any position adopted in advance of a planning meeting you must have and be seen to have an open mind at the point of decision-making and base your decision on the information available at that time.
- Pre-application meetings with developers or prospective applicants may be a positive way of engaging the developer to seek to ensure that community needs are met. However, if approached, you should refer any requests for such a meeting to the Proper Officer who will then organise the meeting and ensure that those present are advised from the start that the discussions will not bind the authority to any particular course of action and that the meeting is Avoid meeting developers alone or putting yourself in a position where you appear to favour a person, company or group.

7. Lobbying and councillors

7.1. Lobbying is recognised as a normal and proper part of the political process. However, it is important for members to protect their impartiality and integrity in planning matters. You will not breach this Code of Good Practice by listening to or receiving viewpoints from residents or other interested parties provided that you make it clear that your final position will be determined at the end of the planning process when you are aware of all of the material considerations.

7.2. Can I remain a member of an amenity society when it makes representations on planning matters?

There are many general and local interest groups who concentrate on issues beyond particular planning proposals. It is acceptable to be members of these societies, provided that an interest is declared when that organisation has made representations on a particular proposal and you make it clear that you have reserved judgement and the independence to make up your own mind on each separate proposal. However, if you become a member of or lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals, you will have to ensure that you still have an open mind and will again have regard to all material considerations at the time any decision is made.

9. Decision making

9.1 By law, the council has to make decisions in accordance with the Development Plan unless material planning considerations indicate otherwise. The National Planning Policy Framework is a material planning consideration.

9.5. Site Visits – Councillors will be expected to be familiar with the site and the issues surrounding the decision when they arrive at a committee meeting. It is acceptable to visit the site and, if necessary, surrounding properties that may be affected by the proposal, as an individual councillor before the meeting, although councillors should not enter onto a site without the consent of the owner. In the unlikely event that the landowner will not give permission to enter a private site, the site will have to be viewed from public highway. On no

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account should councillors express a view on the merits of the application to anyone, including the applicant, owner or any third party. While it may be necessary for an applicant or his agent to be present on the site (e.g. to provide access or for safety reasons), discussions with the applicant or their agent or any third party should be avoided, and they will be advised that lobbying of councillors is unacceptable. Presentations by applicants will not be permissible.

9.6. Public Speaking at Meetings - The council has an established procedure in respect of public participation at meetings. This should be complied with.

Each speaker will be allotted 3 minutes to address the committee. Where a committee member with a disclosable pecuniary interest they may will be permitted to participate in their private capacity as a member of the public. In the case of particularly controversial or large-scale applications the chairman of the committee will have discretion over these timings and will be able to allow more speakers. It is imperative, however, in the interests of natural justice that any increase in time allowance is applied equally between those speaking for and against.

10. Training

Planning is a complex area, but one that generates a great deal of interest amongst local residents and is at the heart of much of the activity of the council. Great care needs to be taken over procedural matters and to ensure that consideration of applications takes place in a clear and open manner and that decisions are based on sound planning principles. For these reasons, it is recommended for Councillors to have training in planning matters but it is not mandatory.

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Valid reasons for comment on a planning application:

Comments that are clear, concise and accurate stand more chance of being accepted than those that are not. When planning applications are considered, the following matters can all be relevant. These are sometimes referred to as ‘material planning considerations’:

- Central government policy and guidance - Acts, Circulars, Planning Policy Guidance Notes (PPGs) etc.
- The Development Plan - and any review of the Development Plan which is underway.
- Adopted supplementary guidance - for example, village design statements, conservation area appraisals, car parking standards.
- Replies from statutory and non-statutory agencies (e.g. Environment Agency, Highways Authority).
- Effects on an area - this includes the character of an area, availability of infrastructure, density, over-development, layout, position, design and external appearance of buildings and landscaping
- The need to safeguard valuable resources such as good farmland or mineral reserves.
- Highway safety issues - such as traffic generation, road capacity, means of access, visibility, car parking and effects on pedestrians and cyclists.
- Public services - such as drainage and water supply
- Effects on individual buildings - such as overlooking, loss of light, overshadowing, visual intrusion, noise, disturbance and smell.
- Effects on a specially designated area or building - such as green belt, conservation areas, listed buildings, ancient monuments and areas of special scientific interest.
- Effects on existing tree cover and hedgerows.
- Nature conservation interests - such as protection of badgers, great crested newts etc.
- Public rights of way
- Flooding or pollution.
- Planning history of the site - including existing permissions and appeal decisions.
- A desire to retain or promote certain uses - such as playing fields, village shops and pubs.
- Prevention of crime and disorder
- Presence of a hazardous substance directly associated with a development
- Human Rights Act
- Precedent - but only where it can be shown there would be a real danger that a proposal would inevitably lead to other inappropriate development (for example, isolated housing in the countryside)

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Irrelevant reasons for objection

There are certain matters which do not amount to ‘material planning considerations’ under current legislation and guidance. These matters cannot be taken into account in considering a planning application and should not be included in objections as they weaken your case:

- Speculation over future use
- The identity of the applicant or occupant
- Unfair competition
- Boundary disputes
- Breach of covenants and personal property rights, including personal (not Public) rights of way
- Loss of a private view
- Devaluation of property
- Other financial matters
- Matters controlled by other legislation - such as internal space standards for dwellings or fire prevention
- Religious or moral issues - such as betting shops and amusement arcades
- The fact that the applicant does not own the land to which the application relates
- The fact that an objector is a tenant of land where the development is proposed
- The fact that the development has already been carried out without planning permission and permission is now being sought. People can carry out development at their own risk before getting planning permission.
- The developer’s motives, record or reputation

The Planning Code of Good Practice was adopted by the Great Bedwyn Parish Council at a meeting held on 12 September 2019.