

# Llawlyfr Aelodau

# Members Handbook

---



Cyngor Sir  
**CEREDIGION**  
County Council

## Member's Protocol of Good Practice in Planning

**Table of Contents**

Introduction.....4

1. Relationship to Code of Conduct.....5

2. The Planning Protocol .....7

3. Development Proposals and Interests under the Members’ Code .....8

4. When to make your decision .....9

4 a) Committee Members decision making.....9

4 b) Role of Local Ward Member (LWM) in planning matters and in determining applications .....11

5. Contact with Applicants, Developers and Objectors .....12

6. Lobbying .....14

6 a) Lobbying from agents / applicants .....14

6 b) Lobbying by Members .....16

7. Site Visits.....17

8. Speaking to the Public during Meetings .....19

9. Discussions with Officers .....19

10. Decision Making.....20

10 a) Importance of approved policies in decision making on planning applications.....20

10 b) Reports to Committee on planning applications .....21

10 c) Decision’s contrary to policy and/or recommendation .....22

11. Member Training .....23

12. Planning applications by Members and Officers of the Authority.....24

13. Planning applications by the Council as landowner .....24

14. Major Developments .....25

15. Cabinet Members.....25

16. Data Protection and GDPR.....26

## **Introduction**

Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decision) and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision making.

One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well-founded in any way.

The purpose of this protocol is to set out clearly the way in which the Council will expect Members to behave and act in their dealings with planning applications. The protocol sets standards of probity and conduct which the residents of Ceredigion can expect of Members.

**Members are expected to take account of and adhere to this protocol**

## 1. Relationship to Code of Conduct

It is fundamental to the adoption of a Member Protocol of Good Practice in Planning, that Members recognise the relationship between the Members Code of Conduct (the Code) and Member Protocol of Good Practice in planning.

The Code of Conduct sets out general provisions and obligations for Members; addresses the issue of personal and prejudicial interests and registration and declaration of Members' interests and of gifts and hospitality.

Within the planning process, the following principles of the Code are particularly relevant:

### a) **Selflessness**

Members must act solely in the public interest. They must never use their position as Members to improperly confer an advantage on themselves or to improperly confer an advantage or disadvantage on others.

### b) **Honesty**

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

### c) **Integrity and Propriety**

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

### d) **Objectivity in Decision-making**

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

### **e) Accountability**

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a Member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

In addition, the following paragraphs of the Code are particularly relevant:

#### **You must**

carry out your duties with due regard to the principle that there should be equality of opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion

not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers,

give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

#### **You must not**

disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

This Member Protocol of Good practice in planning is not intended to replace the Members Code of Conduct but to supplement it and assist in giving guidance on the roles and expected behaviour of Members, including dealing with applications from relatives and associates where they have a personal interest, lobbying and negotiations with applicants and their agents, site visit procedure, and decisions contrary to Officers' recommendations, amongst other things.

The protocol is intended to show how the Council deals with planning matters, and sets standards of probity and conduct which residents expects of Members.

**Do** apply the rules in the Members' Code of Conduct first, which must always be complied with.

**Do** then apply the rules in this Member Protocol of Good practice in planning, which seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Protocol of Good Practice, you may put:

- The Authority 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 Ethics and Standards Committee or if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Public Services Ombudsman for Wales and ultimately to the Adjudication Panel for Wales.

## **2. The Planning Protocol**

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. Planning necessarily affects land and property interests and as such is often highly contentious. It is important therefore that planning decisions are made openly, impartially, with sound judgment and for justifiable reasons. This includes not just the making of the final planning decisions themselves but also applies to the developmental phases and development of the Authority's longer-term planning e.g., the Local Development Plan and its successors.

The aim of this **Member** Protocol of Good Practice is to ensure that there is a framework in place so that Members can work with the overall objective of ensuring that in the entire planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way and that such decisions have been taken openly, transparently and fairly in accordance with established procedures that have been and are scrutinized periodically.

This **Member** Protocol of Good Practice applies to Members at all times when they are involved in the entire planning process. This includes both Development Management Committee meetings, meetings of the Authority when exercising the functions of the Planning Authority, and less formal occasions, such as meetings with Officers or the public and consultative meetings. It applies to planning enforcement matters or site-specific policy issues as well as to planning applications. It also applies to the development of the Local Development Plans which are periodically reviewed and then adopted.

### **3. Development Proposals and Interests under the Members' Code**

#### **Members must always declare personal and prejudicial interests in accordance with the Members' Code of Conduct**

**Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with Officers and other Members. Disclose your interest at the commencement of the meeting, and at start of the discussion on that particular matter.

#### **Where your interest is personal and prejudicial, unless you have a dispensation:**

**X Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Local Planning Authority and/or the Development Management Committee

**X Don't** get involved in the processing of the application or any proposal for the possible amendment of the Local Development Plan



**X Don't** use your position to discuss the proposal with Officers or Members when other members of the public would not have the same opportunity to do so. You should never 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 Member.

Whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate Officer, in person or in writing, the Code and protocol places greater limitations on you in representing that proposal than would apply to a normal member of the public. You may address the Committee but only to make a presentation in the same manner that would apply to a member of the public. You must then withdraw from further conduct on the matter.

## **4. When to make your decision**

### **4 a) Committee members decision making**

To protect the rights of planning applicants or objectors, and to preserve the integrity of Committee decisions, it is vital that Members do not make up their minds before they have all relevant material and arguments before them at the Development Management Committee meeting. This also applies to Local Development Plan proposals and their consideration at Cabinet and Council meetings. Members will be aware that they are entitled to feel pre-disposed towards a particular decision, but must still be able to consider and weigh relevant factors before reaching the final decision.

This should not be confused with the issue of "Pre-determination" which arises when Members' minds are closed (or reasonably perceived to be closed) to the consideration and weighing of the relevant factors. That risks making the whole decision vulnerable to legal challenge.

**X 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 Development Management Committee or the Cabinet or Council meeting if the development proposal is considered there. 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, then you will not be able to participate in the determination of the matter by the Authority because if you did take part in the discussion or vote it would put the Authority at risk in a number of ways.

Firstly, it may, in the view of the Public Services Ombudsman for Wales, constitute maladministration.

Secondly, the Authority could be at risk of legal proceedings on a number of possible grounds:

- that there was a danger of bias on your part; and/or
- pre-determination; and/or
- failing to take into account all of the factors enabling the proposal to be considered on its merits.

The consequence of any of the above could be that a planning permission that you wished to support or a decision you were party to could end up being quashed by the courts.

You may take part in the debate on a proposal when acting as part of a consultee body such as a Community Council or Town Council provided:

- the proposal does not significantly affect the financial standing of the consultee body; and
- you make it clear during the discussion at the consultee body that;
  - i. your views are expressed on the limited information before you only; and
  - ii. you will reserve judgment and the independence to make up your own mind on each separate proposal when it comes before the Authority and you hear all of the relevant information; and
  - iii. you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Authority; and
- you disclose the personal interest regarding your membership of the consultee body when the Authority comes to consider the proposal.

Where you have given the clear impression that you have already made up your mind (in legal terminology “fettered your discretion”), and therefore decline to speak or vote on a proposal on the issue before the Development Management Committee or Cabinet or Council, you do not also have to withdraw (unless you also have a prejudicial interest), but you may prefer to do so for the sake of appearances and public perception.

If you decide to stay in the meeting, explain that you do not intend to speak and vote because you have previously given (or you could reasonably be perceived as having given) the impression that you have already made up your mind or judged the matter elsewhere, so that this may be recorded in the minutes and use the disclosure form for disclosing interests.

Where you are a Chair or a person who is perceived as being in control of another body, which is itself submitting an application for consideration, you should refer to the Members Code of Conduct and respond accordingly.

#### **4 b) Role of Local Ward Member (LWM) in planning matters and in determining applications**

*Please also see DMC Operational procedures document within the Constitution*

The role of the Local Ward Member (LWM) in Development Management Committee is dependent on whether they are a member of the committee or not. If they are not, they are able to speak on the application in accordance with the operational procedures representing the wider views of their constituents affected by the application. However, they cannot vote on the application and must observe the specified time limits.

When an application is presented that involves one of the **Members** of the Development Management Committee **who is also the LWM of that application**, the said member should ‘step down’ from the committee ‘table’ and join the **member benches** as they are not permitted to vote on applications impacting upon their ward.

**X Don’t** act or be perceived to act as agent for the applicant. The LWM must consider the application in context of the whole Community.

If you are a member of both a Community Council and a County Council, you are not prevented from discussing the same matters at both. You may, for example, take

part in a discussion about a planning application about which your Town/Community Council has been consulted and still go on to participate in a decision about the application if you sit on the Development Management Committee of your County Council.

**Do** at the Development Management Committee, make it clear that you are not bound by the views of the Community Council.

**Do** If the planning application was one submitted by a Town/Community Council, declare both a personal and a prejudicial interest, and withdraw from the chamber or meeting room.

## 5. Contact with Applicants, Developers and Objectors

It is the role of a Local Member to listen to their constituents' issues and you will have not breached any part of this code by being available to listen to people. However special considerations apply when a planning application is being considered that mean it is imperative Members are not seen to have fettered their discretion.

**Do** be careful about social contact with agents. They should be regarded and treated with the same approach as that adopted in relation to social contact with developers.

**Do** seek to minimise social contacts with known developers particularly when the developer is known to be contemplating development within Ceredigion or has submitted a planning application which has yet to be determined. Within the small communities of Ceredigion, local Members who have long standing social contacts with known developers may have difficulty avoiding such contacts. Nevertheless, Members should avoid social contact with those who are known to have submitted a "live" planning application or a development proposal for consideration in any form, either directly or indirectly, or objected to another's proposal in case this gives the impression that their contact with the developer would affect their judgment of the public interest. If this impression could have been given, Members should declare a personal and prejudicial interest and not participate in determination of the proposals.

**☑ Do** refer an applicant, developer or objector who approaches you about a planning application or development proposal to Officers, if they need planning, procedural or technical advice.

**X Don't** agree to any meeting with applicants, developers or groups of objectors where it could give rise to the perception that you are taking sides. Be careful you do not give the impression that you are acting as agent. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself as this may be perceived that you are promoting one point of view or the other. Request the Authority to organise it. The Officers 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 Authority records; and the record of the meeting is disclosed when the application or development proposal is considered by the Development Management Committee or Cabinet or Council, or any other relevant Committee.

**☑ Do** remember to:

- follow the rules on lobbying (referred to below);
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Authority 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.

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

**X Don't** attend a planning presentation unless an Officer is present and/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.

## 6. Lobbying

For the purposes of this protocol, lobbying is defined as the following:

*“Approaches or representations to a Member with the intention, or which may appear to have the intention, of influencing the way the Member deals with the planning matter.”*

### 6 a) Lobbying from agents / applicants

Applicants, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to a Member of the Development Management Committee or Local Planning Authority. It is a fundamental principle that members of the public are free to make their views known to Members and lobbying is a legitimate form of public representation. In order for the planning system to work effectively public concerns must be adequately aired.

However, if such lobbying of Members of the Development Management Committee or Local Planning Authority oversteps the mark it can lead, unless care is taken, to the impartiality and integrity of Members being called into question. The information provided by lobbyists is unlikely to represent a complete 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 form a balanced judgment on the case. The time for individual Members to make a decision on a proposal is when all available information is to hand and has been duly considered and a request for delegated authority has been made or at the relevant Ceredigion County Council meeting or Development Management Committee meeting. Members may of course form preliminary views, but if they commit themselves to supporting or opposing a particular proposal outside of the meeting at which it is being considered they should take no part in determining the matter.

Discretion is always advisable, and the furthest a Member should ever go would be to say *“From what I know at the moment I support (or have reservations about) this*

*application, but I won't make a final decision until I have all the facts before me at Development Management Committee".*

**☑ Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this **Member** Protocol of Good Practice **in Planning** 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.

If you are lobbied:

**☑ Do** explain to those attempting to lobby you that, whilst you can listen to what is said you are not in a position to express an intention to vote one way or another or to express such a firm point of view that it amounts to the same thing because this will mean you cannot participate in the Authority's decision-making process.

**☑ Do** pass on any representations you receive and copy or pass on any lobbying correspondence you receive to the Authority at the earliest opportunity. It will be placed on the relevant file and taken into account in determining the application.

**☑ Do** report lobbying at the start of the Development Management Committee meeting or any other relevant Committee meeting of the Local Planning Authority so that it may be minuted.

**☑ Do** refer any offers made to you of planning gain or to restrict the development through a proposed Section 106 Planning Obligation or otherwise to the Authority.

**X 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

amount and, if over £21 in value, its acceptance is registered in the Register of Gifts and Hospitality in accordance with the Authority's Code of Conduct as soon as possible.

**Do** indicate that you will pass on that person's views to the Local Planning Authority and if necessary, the Development Management Committee when it considers the matter but that you cannot commit yourself to vote in any particular way. If you intend to speak at the Committee meeting in this way, make it clear at the start of your speech on the item that this is what you are doing.

**X Don't** take part in negotiations with applicants or potential applicants regarding their proposals for development except where such negotiations are part of a structured arrangement with Officers. To do so risks public perception of pre determination. Factual information on adopted policies can be provided, but if applicants want more detailed discussions on a scheme, then they should be referred to the relevant Planning Officer.

**Do** inform the Monitoring Officer if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

Unless you have a personal and prejudicial interest in the matter, if you follow this and the other advice in this protocol, you will be able to speak and vote at the Committee meeting.

## **6 b) Lobbying by Members**

**X Don't** lead or act as spokesperson of an organisation whose primary purpose is to lobby or promote or oppose a planning application. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest.

This does not preclude you from joining general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning applications. You should disclose a personal interest where that organisation has made representations on a particular proposal and you should make it clear to the Authority that you have reserved judgment and retained your independence to make up your own mind on each separate proposal.



You should, however, make sure that if the group to which you belong has adopted a view on the matter, then you declare a personal (but not necessarily prejudicial) interest when the matter is discussed.

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

**X 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

These rules apply to formal site visits.

*See also operational procedures of the Development Management Committee.*

Site visits can play an important role in ensuring that Members make decisions on a sound understanding of the relevant issues. However, care must be taken to ensure that site visits are not misused as a lobbying device to help ensure a particular outcome in respect of controversial applications or as a delaying tactic to defer consideration of an application to a subsequent meeting. It is also important that there is a clear understanding by members of the public as to why certain applications require a site visit and others do not. **Be mindful that the tests for site visits are that it is 'essential and exceptional'.** For these reasons:

**Do** comply with the operational procedures in deciding whether a site visit is required and if so, the procedure to be followed.

**Do** attend. **Given the tests required to call for a Site Inspection, Members should consider if they did not attend whether they have all the necessary information on which to vote.**

Please note members of the public including applicants and agents and objectors will not normally be invited to attend and if required to do so should not be allowed to make representations at the **Site Inspection**.

**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 factual matters which are relevant to the site inspection.

**X Don't** express opinions or views on the proposal to anyone.

**X Don't** enter a site which is subject to a planning application 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, and
- you have first spoken to the Authority 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, and
- you have the permission of the owner of the land.

As a principle you should remember the above where there is unlikely to be formal Member visits but where Members feel they need to access a site to become familiar with it, in respect of sites currently being considered or already within the Development Plan process.

You may of course view a site from a public highway at any time, but guard against becoming drawn into discussions of the merits of any proposal.

## **8. Speaking to the Public during Meetings**

**X Don't** encourage members of the public to communicate with you during the Committee proceedings (orally, electronically or in writing) other than through the Members' Planning protocol of Good Practice: – January 2025

scheme for public speaking, as this may give the appearance of predetermination or bias. If you receive such a communication, you should not reply.

**Do** ensure that you comply with the Authority's procedures in respect of public speaking.

## 9. Discussions with Officers

**X Don't** put pressure on any Officer to put forward a particular recommendation as this may be seen as prejudicing his/her professional integrity and impartiality and may be a breach of the Code of Conduct. This does not prevent you from asking questions or submitting views to the Corporate Lead Officer for Economy 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/Team Leader or those Officers who are authorised by the Corporate Lead Officer for Economy and Regeneration 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 any appropriate Officer and professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, Planning Officers' 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 Members. Officers in their role of advising and assisting Members in their determination of planning applications and Development Plan matters will provide:

- impartial and professional advice;
- consistency of interpretation of the planning policies;
- complete written reports which will include:
  - a clear and accurate analysis of the issues in the context of the relevant Development Plan policies and all other material considerations;

- the substance of the representations, objections, and views of all those who have been consulted;
- a clear written recommendation of action and where that recommendation is contrary to the Development Plan, the material considerations which justify the departure;
- all necessary information for the decision to be made.

## 10. Decision Making

### 10 a) Importance of approved policies in decision making on planning applications

In making decisions on planning applications and Development Plans, the law requires the application to be determined in accordance with the current Development Plan where relevant unless material considerations indicate otherwise. The development plan comprises the Development Plan for the time being in force and any successor Plan adopted in its place and such policies should not be set aside in a particular case without sound planning reasons for doing so.

**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 current 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 material or information or that there is simply insufficient information before you, request that further information. If necessary, propose deferral of the application.

**X Don't** vote or take part in the decision on a proposal unless you **have** been present to hear everything that has been said at that meeting, including the Officers' introduction to

the matter. If an SI was included and you were unable to attend you need to satisfy yourself you have all the information necessary to make a decision.

**Do** make sure that if you are proposing, seconding or supporting a decision (especially one contrary to Officer recommendations or the current Development Plan) that you clearly identify and understand the planning reasons leading to the conclusion/decision and can identify the supporting evidence. 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 (for example at a Public inquiry or Judicial Review proceedings).

**Do** make your decision based on cogent sound and material planning considerations

**X Don't** make your decision based on personal circumstances unless there are exceptional planning reasons to do so

**X Don't** refer to personal details of any person (e.g., health, age, home address, employment status or business) they are not relevant in coming to a planning decision and raise concerns regarding **Data Protection** even with the applicant's consent.

## **10 b) Reports to Committee on planning applications**

Officers' written reports to Committee aim to be accurate and concise and provide all relevant information. They describe the proposal, and have a reasoned planning assessment of the proposal including an analysis of all relevant planning policies and other material planning considerations. They contain a written recommendation justified on the basis of relevant development policies and other material planning considerations. They cover consultations and other representations but may not include copies of all letters of objection or support received. They will, however, summarise any material planning considerations contained in such representations. Complete copies of all such correspondence are placed on the planning file and are available to Members.

**Do** advise the Case Officer as soon as is practicable if you become aware of information relevant to the determination of a case which is on the Development Management Committee agenda. Failure to do so may result in deferment of the case causing unnecessary delay.

**Do** contact the Authority as soon as possible if you wish to discuss the interpretation of information in a Development Management Committee report, or a Local Planning Authority report on a development proposal.

### **10 c) Decision's contrary to policy and/or recommendation**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions must be taken in accordance with the current Development Plan unless material considerations indicate otherwise.

Officers will advise in their report what arguments put forward by an applicant/objector or supporter to an application are considered capable of constituting material considerations. Often arguments of a personal kind relating to the circumstances of the applicant are put forward to support a proposal.

Personal circumstances cannot outweigh other planning considerations except in the most exceptional circumstances; an example could be in the cases of temporary Gypsy Traveller Accommodation whilst permanent sites are being developed.

Where for example a personal permission for a temporary structure may be acceptable it would be subject to specific conditions limiting the occupation to a particular individual for a specified period i.e., 3 years - however the authority will need to be assured it is not running the risk of contravening its duties under the Equality Act 2010.

**The grant of a permanent structure due to the needs of the intended occupiers does not constitute a material planning consideration as planning consent runs with the land.**

It is important for **M**embers to be mindful that National Planning Policy and Guidance has been developed in accordance with the Well Being and Future Generations (Wales) Act 2015 (WBFG Act) and therefore the inherent principle of sustainable development as enacted in the WBFG Act has been incorporated in planning policy at a national and local level. It is not the case that developments which support an individual's wellbeing outweigh the tenets of national policy – as indeed the WBFG Act has been enacted through national planning policy. The central premise of the WBFG Act is to require

Members' Planning protocol of Good Practice: – January 2025

public bodies to think about the long-term impact of their decisions. To consider an individual's circumstances and support a development on that **basis**, if not sustainable development, is in direct conflict with the **WBFG** Act which requires public bodies to consider sustainable development for the wellbeing of future generations and ensure resources are not wasted, in effect to make decisions for the greater good, even if that does not support an individual's personal needs at a given time.

Applications which are determined contrary to officer recommendation must be supported by clear robust and convincing reasons based on material planning considerations.

Making decision against offers advice may expose the Council to legal or other challenge, including complaint to PSOW, or call-in by Welsh Ministers.

**Do** ensure that **M**embers remember and keep in mind that the Authority has adopted a protocol in relation to making decisions contrary to officer recommendation, and / or local and national polices which is set out in the Development Management Committee's operational procedures.

**Do** ensure that if Members are minded to approve or refuse an application contrary to policy or to the recommendation of the Officer, then such consideration shall follow and be deferred until the Development Management Committee meeting where, on reconsideration of the matter, **M**embers must identify clear and substantiated reasons capable of constituting material planning considerations.

## **11. Member Training**

The planning system is a quasi-judicial process involving complex legal and technical issues which require the application of sound judgment in the assessment of planning proposals. A failure to follow proper practice and procedures can lead to serious consequences for the planning authority and to the Council in general. Therefore, Members will be unable to participate in decision making involving planning matters if they have not attended the mandatory planning training prescribed by the Authority.

**Do** endeavor to attend any specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Guidance and Codes of Practice and the Development Plans and thus assist you in carrying out your role properly and effectively.

## **12. Planning applications by Members and Officers of the Authority**

When a planning application is submitted by:

A serving Elected Member or close personal associate,

Chief officers (Chief Executive, Corporate Directors and Corporate Lead Officers),

All staff employed by the planning service(s) including Development management and Planning Policy

Any other staff closely linked to the planning service or a particular planning application,

Or a close personal associate;

The Member or Officer concerned will:

- i. take no part in the processing and determination of the application/Development Plan matter;
- ii. not communicate with any development management or planning officers or with any member of the Development Management Committee on the matter
- iii. advise the Chief Executive, Monitoring Officer and the Corporate Lead Officer for Economy and Regeneration and relevant Head of Service/Team Leader.
- iv. make appropriate declarations of interest

All planning applications submitted by a Member, or an officer or their close personal associates will be reported to and determined by the Development Management Committee.

This is to ensure that such planning applications are dealt with independently, to safeguard against any perceived conflicts of interest, and to promote fairness and transparency.



### **13. Planning applications by the Council as landowner**

Any application submitted by, or on behalf of, or on land in the ownership of Ceredigion County Council for which the Council has a direct interest will be reported to and determined by the Development Management Committee.

Cabinet Members who are also Members of the Development Management Committee will be expected to declare a prejudicial interest, and to stand down from the application. This is in order to ensure that council-led projects can be determined by the Development Management Committee, and that Cabinet Members have not fettered their discretion or predetermined (or appeared to have made up their mind) and predetermined their position by being part of decision making on the suitability of projects at earlier stages.

### **14. Major Developments**

All major developments will be reported to and determined by the Development Management Committee.

“Major” developments are defined as:

The determination of planning applications for major development, as defined 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 detailed) for a similar type and scale of development.

(Excluding the determination of applications for the winning and working of minerals or the use of land for mineral-working deposits and the determination of applications for waste developments).

## 15. Cabinet Members

Cabinet Members will be permitted to sit on the Development Management Committee in accordance with the group leaders' allocations.

## 16. Data Protection and GDPR

In relation to determination of planning applications by the Development Management Committee allowing the discussion of personal information risks the Development Management Committee breaching the Data Protection Act 2018 and the UK General Data Protection Regulation 2018.

As an Elected Councillor, you are a 'Data Controller' when representing residents of your ward, and when canvassing. You are accountable for the processing of personal information such as taking forward complaints made by local residents, or using personal information to timetable surgery appointments. If you represent a political party, particularly at election time, the political party will be the data controller. As a Data Controller you will need to ensure that you comply with the GDPR and Data Protection Act 2018.

**X Don't** disclose Sensitive and confidential personal information during discussion at the Development Management Committee this could include their marital status, employment history, number of dependants, caring responsibilities, disabilities etc. Even where consent has been granted by the individual concerned, Members need to be mindful that this data is being made publicly available and thus the requirements of GDPR remain.

The Development Management Committee needs to be assured that when dealing with members of the public/agents or objectors (and their personal data), that they are safeguarding these individuals and themselves as decision-makers. And decisions are taken in line with proper arrangements not personal circumstances, opinions or feelings. This will guard against Members making decisions which could impact on and expose someone's personal life.

**Do** remember when Members are acting as Local **Ward Members**, they will be deemed to be data controllers, and will become personally liable for any data breaches resulting from the disclosure.

**Do** follow the **Council's** advice for **LWM's** in relation to GDPR and sample privacy notices for use when dealing with constituents.