

DERSGHAM PARISH COUNCIL

PROBITY AND PLANNING PROTOCOL

1. Good Decision Making

- 1.1. Decisions on planning applications are sensitive because they affect the property rights of individuals - both applicants and their neighbours. Strong emotions are often felt by those supporting or opposing development proposals. It is very important that the planning process is conducted in a fair, open and even-handed way.
- 1.2. Whilst the final decision-maker on an application will be the Borough Council, the Parish Council has a vital role to play. It is consulted on all applications, and its views are an important consideration to be borne in mind by the Borough Council.
- 1.3. When decisions are being made, they must comply with the rules of Natural Justice, i.e. they must be made fairly, within the law and follow the Council's policies and procedures. Councillors should not come to meetings having made up their minds in advance and should not show bias. For example, it would be difficult for a Councillor who has actively campaigned for or against a proposal not to be seen as being biased. In such a situation, the Councillor should declare an interest and not speak or vote at the meeting.
- 1.4. Local opposition or support for a proposal will not, in itself, carry weight with the Borough Council. However, the views of the Parish Council will carry weight if they are founded on valid planning reasons e.g. Neighbourhood Plan, Local Plan and Structure Plan policies, Government guidance in the National Planning Policy Framework, impact on visual amenity, highway safety, etc. Reasons for the Parish Council recommendations (both support or objections to a proposal) should be passed on to the Borough Council in writing.
- 1.5. What could happen if a decision is not properly made - an application could be made to the High Court to have the Borough Council's decision quashed. If successful, this would result in the decision being referred back to the Borough Council for re-determination taking on board the Court's findings. This process is not usually available to applicants, because they have a right of appeal against refusal to the Office of the Deputy Prime Minister.
- 1.6. In certain circumstances, a Member's conduct can be referred to the Standards Board at the Borough Council e.g. if a Councillor actively campaigns for or against a proposal and then takes part in the Council's decision-making process.

2. Code of Conduct

- 2.1. Councillors must declare any personal interests. An interest is personal where a decision could affect the well-being or financial position of the Councillor or that of a relative or friend to greater extent than other Council Tax payers. Interests can arise from employment, business interests, shareholdings and membership of organisations.
- 2.2. An interest is deemed to be "prejudicial" where a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to

prejudice the Member's judgement of the public interest.

- 2.3. If a personal interest is not prejudicial, then Councillors can speak and vote. On the other hand, if an interest is prejudicial the Councillor must declare it and leave the room where the meeting is taking place. A Councillor can be seen to influence his/her colleagues just by being present at the meeting.
- 2.4. Land ownership is by its very nature problematical when it comes to planning. You will have a prejudicial interest if you are the applicant or if a relative or friend of yours is. Again, you will have a prejudicial interest if land that you or a relative or friend owns will be affected by the proposed development.
- 2.5. Friendship is more than mere acquaintance and depends on a number of factors such as how often you meet, where you meet, whether you visit one another's homes, whether you attend the same social functions, whether you know each other's family or whether you are closely connected in any other way.
- 2.6. Membership of clubs may give rise to a prejudicial interest, e.g. a Councillor would have a prejudicial interest if they were a member of a golf club which made a planning application. Again, membership of lobbying groups can lead to prejudicial interest having to be declared. Members of lobbying groups should not speak or vote on matters directly affecting those groups or where the groups have publicly expressed opinions on the proposals being considered by the Parish Council.
- 2.7. The Code of Conduct requires Councillors to show respect for others. This includes applicants and objectors. Think about what you are going to say before you say it. Make comments about the planning issues rather than personalities. Some comments could be considered to be defamatory, so be careful.

3. Other Issues

- 3.1. Councillors need to be wary of lobbying, which can lead to their integrity and impartiality being called into question. If a Councillor is lobbied, they should not express an opinion which could imply that they have made their mind up about an application in advance of the meeting. Private meetings with applicants or objectors should be avoided.
- 3.2. Public Speaking at Borough Council Meetings - a representative from the Parish Council can speak, together with a spokesperson on behalf of objectors, a spokesperson on behalf of supporters and the applicant or their representatives. Each speaker is given a "slot" of three minutes (5 minutes for a major application). Anyone speaking on behalf of the Parish Council should express only the agreed views, as conveyed to the Borough Council, and not their own personal views.
- 3.3. Borough Councillors who are Parish Councillors are entitled to speak and vote on the same planning application at Town/Parish and Borough levels if they are genuinely willing to listen to the later debate and weigh the considerations material to the later decisions. A Councillors willingness to do this should be recorded in the Minutes of both the Parish and Borough Council Meetings.