

<i>COMMITTEE</i>	STANDARDS COMMITTEE
<i>DATE</i>	TUESDAY, 16 MARCH 2004
<i>TITLE OF REPORT</i>	PLANNING CODE OF CONDUCT
<i>RESPONSIBLE OFFICER</i>	Mark Bowen, assistant director, legal and contract services

1 PURPOSE OF THE REPORT

- 1.1 To advise members of the outcome of the consultation on the draft Planning Code of Conduct and seek the agreement of the committee to refer to the Code of Conduct to full Council for adoption on 7 April 2004.

2 RECOMMENDATION

- 2.1 That members agree that the Planning Code of Conduct is submitted to full Council for approval on 7 April 2004.

3 DECISION ISSUES

- 3.1 Under the constitution it is the role of the Standards Committee to advise on good practice.

4 CONSULTATION PROCESS

- 4.1 On 24 September 2003, the committee considered a draft Code of Conduct for planning matters. Various suggestions were made by the committee and the revised code taking into account those suggestions was circulated to members of the committee for comment.

- 4.2 In addition to the consultation with members of the Standards Committee the following consultation has also been undertaken.

- Group Leaders
- Chairs and members of the two Area Development Control Committees
- Members who are both Parish Councillors and Medway Councillors
- Relevant officers in the Development and Environment Directorate and lawyers involved in planning work
- The head of the Chief Executive's office who is responsible for dealing with complaints and Ombudsman referrals.

- 4.3 The Chairs of the Area Development Control Committees indicated broad support for the Code but expressed a preference that members of the relevant committees be consulted individually rather than through a presentation at a committee meeting. This was done. One additional response was received from the Vice-Chair of the one of the committees expressing strong support for the Code.
- 4.4 The Head of the Chief Executive's office has also expressed support for the Code. In doing so he emphasised that approximately 25% Ombudsman complaints received by Medway relate to planning matters. Therefore, the Ombudsman takes a keen interest in our planning process. He suggests that perhaps there could be more reference to the Ombudsman in the preamble to the Code and this, subject to members' views, is considered to be acceptable.
- 4.5 Officers from the Development and Environment Directorate have raised three substantive issues.
- 4.6 The first issue is the involvement of members in their own planning applications. An option proposed is that where a member submits a planning application discussion should only take between officers and agents or third parties representing the member and there should be no contact between the member concerned and the case officer. This has the advantage of protecting the member from any suggestion that they are abusing their position as a member in breach of the Code of Conduct to further a planning application in which they have an interest.
- 4.7 Following a recent Court of Appeal case that a member cannot be present during a meeting which considers an application they have made, it could be argued that the proposed approach is consistent with this.
- 4.8 However whilst, the principle that once a member always a member has been established in the Court of Appeal it appears on the face of it unduly harsh that a member who does not have an agent would be disadvantaged in the planning process.
- 4.9 The second substantive point relates to adding additional wording to ensure that members are aware of the political nature of planning decisions. It is suggested a further sentence is added to paragraph 4.11 to read:
- “Any group meeting held in advance of a committee meeting should therefore only be used to discuss the detail rather than the merits of the application proposals. Decisions on planning applications should always be made on an apolitical basis.”
- 4.10 It is also suggested that some examples could be given on circumstances where a member has fettered their discretion. There are examples at various points in the Code however, if the committee feels this is required then the following wording could be added to paragraph 4.1:

“A member who makes a statement in favour of or against a planning proposal in advance of the committee to decide the application will have fettered their discretion and will not be able to partake in the decision-making process.”

5 LEGAL AND FINANCIAL IMPLICATIONS

- 5.1 There are no direct financial implications. The legal implications are either set out above or have been identified in previous reports.