



# Member Code of Conduct

Adopted 7 December 2021

## 1. SCOPE

The Authority has a statutory duty to promote and maintain high standards of conduct by Members and co-opted Members of the Authority. As a Member and representative of this Authority it is your responsibility to comply with this Code when you undertake Authority business, or when your actions would give the impression to a reasonable member of the public that you are acting as a Member of the Authority. This includes meetings, in written or verbal communications and in electronic and social media communications.

As a representative of this Authority, your actions impact on how the Authority as a whole is viewed by the public. It is not sufficient to avoid actual impropriety, you should at all times demonstrate the highest level of integrity in public office and strive to avoid any occasion for suspicion or the appearance of improper conduct, taking advice from the Authority's Monitoring Officer if guidance is needed.

## 2. SEVEN PRINCIPLES OF PUBLIC LIFE – NOLAN PRINCIPLES

2.1 This code is based upon the seven principles of public life, referred to as the Nolan principles. You must have regard to the following principles when acting in your official capacity:

### **Selflessness**

You should act solely in terms of the public interest. You should not act in order to gain financial or other material benefits for yourselves, your family or your friends.

### **Integrity**

You should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits you should make choices on merit.

### **Accountability**

You are accountable for your decisions and actions to the public, and must submit yourself to whatever scrutiny is appropriate to your office.

### **Openness**

You should be as open as possible about all the decisions and actions you may take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

You should promote and support these principles by leadership and example.

### 3. GENERAL OBLIGATIONS

3.1 When undertaking Authority business you must:

- a) Deal with representations or enquiries from members of the community and visitors fairly, appropriately and impartially.
- b) Not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing the interests of and the good governance of the Authority in a proper manner.
- c) Exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a Member/co-opted Member of the Authority.
- d) Not improperly use knowledge gained solely as a result of your role as a Member of the Authority for the advancement of yourself, your friends, your family members, your employer or your business interests.
- e) Listen to the interests of all parties, including relevant advice of statutory officers, the Authority's Chief Financial Officer (S151) and the Authority's Monitoring Officer, taking all relevant information into consideration, remaining objective and making decisions on merit.
- f) Be accountable for your decisions, give reasons for decisions in accordance with statutory requirements, and cooperate when scrutinised internally and externally.
- g) Contribute to making the Authority's decision-making processes as open and transparent as possible to enable the public to understand the reasoning behind those decisions, but restricting access to information when the wider public interest or the law requires it.
- h) Not disclose any confidential or third party personal information, except:
  - i. with the consent of the person authorised to give it; or
  - ii. if you are required by law to do so;
  - iii. or where the disclosure is lawfully made to a third party for the purpose of obtaining professional advice (provided that the third party agrees not to disclose the information to any other person);
  - iv. or where the disclosure is made
    - in good faith; and
    - in the public interest; and
    - in compliance with the reasonable requirements of the Authority and data protection regulations, including the General Data Protection Regulations when these become law (May 2018);
  - v. in all instances seeking advice from the Monitoring Officer prior to confidential or third party information release.
- i) Not prevent anyone from getting information that they are entitled to by law.
- j) Behave in accordance with all legal obligations, alongside any requirements contained within the Authority's policies, protocols and procedures including the use of the Authority's resources which prohibit the use of such resources for personal purposes.

- k) Value your colleagues and staff and engage them in an appropriate manner and one that underpins the mutual respect that is essential to good governance and that maintains their impartiality and professional integrity.
- l) Treat people with respect, including the organisations and public you engage with and those you work alongside, even if you hold an opposing view to others, and act in accordance with the Equality Act 2010.
- m) Not bully or harass any person (bullying may be characterised as a single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour, an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear; harassment may be characterised as causing alarm or distress on at least two occasions including repeated attempts to impose unwanted communications and contact in a manner that could be expected to cause distress or fear in any reasonable person).
- n) Not bring your role or the Authority into disrepute.

3.2 As a Member of the Authority you must:

- a) undertake Code of Conduct training provided by the Authority.
- b) cooperate with any Code of Conduct investigation and/or determination.
- c) not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- d) comply with any sanction imposed on you following a finding that you have breached the Code of Conduct

#### **4. REGISTRATION OF INTERESTS**

4.1 You must, within 28 days of your taking office as a Member or co-opted Member of Exmoor National Park Authority, and annually thereafter, provide written notification to the Authority's Monitoring Officer of:

- (i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State (set out in paragraph 4.6 below), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as if you are married or in a civil partnership; and
- (ii) any other personal interest laid down by the Authority, as set out at paragraph 4.7 below;

which will be recorded in the Authority's Register of Members' Interests and made available for public inspection including on the Authority's website.

4.2 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Authority's Monitoring Officer.

4.3 Whether or not an interest within paragraphs 4.6 and 4.7 below has been entered on to the Authority's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 4.13 below, where the matter is not a 'sensitive interest' (see paragraph 4.10 below).

- 4.4 Following any disclosure of an interest not on the Authority's register or the subject of pending notification, you must notify the Authority's Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 4.5 In relation to disclosable pecuniary interests, the expressions in the left hand column below have the meanings attributed to them in the right hand column:

"body in which the relevant person has a beneficial interest"	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
"director"	includes a member of the committee of management of an industrial and provident society
"land"	excludes an easement, servitude, interest or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
"relevant authority"	means the authority of which you are a Member
"relevant person"	means you, your spouse or civil partner, a person with whom you are living with as if you are married or a person with whom you are living with as if you are civil partners
"securities"	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

4.6 The interests you **must** register are:

Those disclosable pecuniary interests defined by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) as set out below, namely:

- (a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) any payment or provision of any other financial benefit (other than from Exmoor National Park Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

- (c) any contract which is made between you or, so far as you are aware, a relevant person (as defined at paragraph 4.5 above) (in which the relevant person has a beneficial interest) and the Authority:
  - (1) under which goods or services are to be provided or works are to be executed; and
  - (2) which has not been fully discharged
- (d) any beneficial interest in land held by you, or so far as you are aware, a relevant person which is within Exmoor National Park;
- (e) any licence (alone or jointly with others) to occupy land in Exmoor National Park for a month or longer;
- (f) any tenancy where (to your knowledge):
  - (1) the landlord is Exmoor National Park Authority; and
  - (2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
- (g) any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
  - (1) that body (to your knowledge) has a place of business or land in the area of Exmoor National Park and
  - (2) either:
    - (A) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (B) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

4.7 You **must** also register those other personal interests laid down by Exmoor National Park Authority. You have a personal interest where:

- (a) you hold an unpaid directorship in a body
- (b) You are a member of, or hold any position of general control or management of:
  - (i) any body to which you have been appointed by the Authority;
  - (ii) any other body exercising functions of a public nature (e.g. County, District or Parish Council; Health, Police or Fire Authority or Quasi Autonomous Non-Governmental Body);
  - (iii) any body directed to charitable purposes;
  - (iv) any body whose principal purposes include influence of public opinion or policy or which, in your view, might create a conflict of interest in carrying out your duties as a Member of Exmoor National Park Authority (e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or Interest Group e.g. National Trust; RSPB: Greenpeace or membership of the Freemasons or similar body).

4.8 A non-registerable interest may arise where a decision might reasonably be regarded as affecting the well-being or financial position of a *significant person* to a greater extent than the majority of any other persons affected by the decision. A

*significant person* means a close member of your family or any person with whom you have a close association. In this instance you must declare to the meeting the existence and nature of that interest and withdraw from the decision making process by stepping outside the meeting room.

4.9 You **must** also

- (a) not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the Authority or from persons who may apply to the Authority for any permission, licence or other significant advantage;
- (b) register the receipt of any gift or hospitality to the value of more than £50 and the identity of the donor of such gift or hospitality within 28 days of its receipt;
- (c) register within 28 days any gift or hospitality to the value of more than £50 that you are offered but have refused to accept.

4.10 Where the Authority's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

4.11 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the Authority's Monitoring Officer asking that the information be included in the Authority's Register of Members' Interests.

4.12 Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at paragraph 4.6 above and you must also observe any restrictions the Authority may place on your involvement in matters where you have any interest as defined by the Authority and shown at paragraph 4.7 and 4.8 above.

4.13 Where you have any interest in any business of the Authority and you attend any meeting at which that business is to be considered, you must:

- (a) disclose to that meeting the existence and nature of that interest, but where your interest is sensitive you are not required to disclose the interest but merely the fact that there is a disclosable interest in the matter concerned;
- (b) disclose any interest in accordance with the Authority's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (c) where you have any disclosable pecuniary interest or a non-registerable interest as defined in paragraph 4.8 above, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (d) not seek to influence improperly any decision about that business;

4.14 Dispensations will be able to be granted in the following circumstances:

- (a) That so many Members of the Authority or of a Committee or Sub Committee have disclosable pecuniary interests in a matter that it would impede the transaction of the business. In practice, that the Authority, Committee or Sub Committee would be inquorate as a result. The responsibility for the consideration and grant of dispensation in such circumstances is delegated to the Monitoring Officer.
- (b) That the Authority considers that the dispensation is in the interests of persons living in the Authority's area. The consideration and granting of such dispensations is delegated to the Standards Committee.
- (c) That the Authority considers that it is otherwise appropriate to grant a dispensation. The consideration and granting of such dispensations is delegated to the Standards Committee.

## **5. OFFENCES**

5.1 It is a criminal offence to:

- (i) Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of taking office as a Member of the Authority
- (ii) Fail to notify the Monitoring Officer within 28 days of a new disclosable pecuniary interest arising during office
- (iii) Fail to notify a disclosable pecuniary interest at a meeting if it is not on the register of interests
- (iv) Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- (v) Knowingly or recklessly providing information that is false or misleading when notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such an interest to a meeting

5.2 The criminal penalties available to a court are to impose a fine (up to £5000) and disqualification from office for up to 5 years. If a complaint is received in respect of non-disclosure of a disclosable pecuniary interest the matter may be referred to the Police to investigate because of the criminal nature of the breach.

5.3 Other breaches of the Member Code of Conduct will be dealt with internally with reference to the Monitoring Officer, Standards Committee and the Authority's Independent Person (appointed in accordance with the Localism Act 2011) in line with Standing Orders.

5.4 Members should note that breach of this Code may not only lead to criminal sanctions but also reputational damage to the Authority and individual Members committing a breach. You will be asked annually to review and update your register of interests and undertake to comply with this Code.



## Code of Conduct in Practice – Planning

### 1. Introduction

Planning is not an exact science. It relies on reasoned judgement within a robust policy context. Decisions made in planning can affect the daily lives of everyone and the private lives of individuals, landowners, developers. It is important that the process of determining planning applications is consistent, open and transparent, is based on sound judgements, and that decisions are made for justifiable planning reasons. The process should leave no room for suggestion that a decision has been partial, biased or not-well founded in policy.

This guidance document seeks to reflect the principles underlying the Code of Conduct for Members, including the ‘Nolan Principles’ (the seven principles of public life) and clarify how Members put these principles and the Code into practice when determining planning applications.

### 2. The General Role and Conduct of Members and Officers

Officers and Members have different but complementary roles. Officers advise Members and the Authority based on their professional judgement and carry out the Authority’s work. They are employed by the Authority, not individual Members, and it follows that instructions to Officers relating to planning may only be given through a decision of the Authority, not by individual Members. Any other system will be open to question. Members should not put improper pressure on Officers for a particular recommendation or do anything which compromises their impartiality. The relationship between Members and Officers should be one of mutual trust and respect and this relationship should never be abused or compromised.

The Member Code of Conduct sits at the heart of Member participation in the planning process. Officers are required to abide by the Authority’s Standards of Conduct and adopted employment policies, as well as the codes of conduct of professional bodies to which they belong, such as the Royal Town and Planning Institute (RTPI).

Members can expect that reports to the Authority Committee shall:

- Be accurate and contain amongst other things, the substance of any responses and the views of those consulted;
- Include a clear exposition of the development plan, site or related history and other material planning considerations;
- Contain a written recommendation of action. Oral reporting (except to update a report) will be avoided and carefully minuted when it does occur.
- Contain technical appraisals which clearly justify a recommendation.
- Ensure that in cases where a report recommendation is contrary to the provisions of the Development Plan, the material planning considerations which justify the departure are clearly stated.

Members may seek clarification from Officers about the technical advice, policies, recommendations and material planning considerations related to a planning application to assist with their understanding and decision making.

### 3. Predetermination and Predisposition

The rule on bias and predetermination (a particular form of bias) is part of the general legal obligation on public authorities to act fairly. Decision makers are entitled to be predisposed to their view. However, predetermination occurs where someone closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.

Section 25(2) of the Localism Act 2011 provides that a decision-maker is not to be taken to have had, or to have 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 a matter, and
- (b) the matter was relevant to the decision.

The section makes it clear that if a decision-maker has given a view on an issue, this, considered in isolation, does not show that they have a closed mind on that issue.

Having said this, the use of the words ‘just because’ in Section 25 of the Act suggests that other factors when combined with statements made can still give rise to accusations of predetermination. This has also been the approach that the courts have taken to this issue. When considering whether predetermination has taken place they will consider all events leading to the decision, (and also, where appropriate, those following the decision) rather than looking at individual events in isolation. This includes the choice of words used. Care needs to be taken when making statements in advance of the determination of planning applications as there is a risk that they can be misinterpreted or taken out of context.

With this in mind:-

- Avoid giving the impression that you have made up your mind prior to the decision making meeting and hearing the Officer’s presentation and any representations made on behalf of the applicant and any objectors.
- Where Members do express an opinion, for example as a Parish Member considering an application at parish level, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the meeting of the Authority Committee. This final decision may differ from initial thoughts about the application.
- If you do comment on a development proposal in advance of the decision, consider using a form of words that makes it clear that you have yet to make up your mind and never use phrases such as ‘nothing will change my mind’ or ‘not on my watch’, for example.
- Care should be taken where there are chance encounters with applicants or objectors to development proposals or in the context of meetings which are not formally minuted. These are situations where there is a higher risk of what you say being misheard, misrepresented or taken out of context.

#### **4. Lobbying**

Lobbying is a normal and proper part of the planning process. Applicants, supporters and objectors will often seek to influence outcomes through an approach to their local Member and/or to other Members of the Authority Committee. However, if not handled carefully lobbying can lead to the impartiality and integrity of a Member being called into question. It is important that bias or the appearance of bias is avoided by Members as the decision could be challenged by way of judicial review or by complaint to the Ombudsman on grounds of mal-administration.

With this in mind:

- Members wishing to take part in a planning decision should not express an opinion in reply to lobbying that may be taken as indicating that they have already made up their mind on the issue before they have heard all the evidence and arguments.
- Members should restrict themselves to giving procedural advice; including suggesting to those who are lobbying that they should speak or write to the appropriate Planning Officer in order that their opinions can be included in the Officer's report to the Committee.
- Where Members do express an opinion they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the meeting of the Authority Committee. This final decision may differ from initial thoughts about the application.
- Where a Member considers their impartiality has been compromised, they must declare an interest and withdraw from the decision-making process, removing themselves from the meeting for that item and not taking part in the vote. Members can most clearly demonstrate their withdrawal from the decision making process by stepping outside the meeting room for the duration of the item.
- Members must make up their own minds on how to vote on a particular planning application, having considered all the relevant evidence and arguments, and must not be influenced solely by their political affiliation.
- Members should not organise support for or against a planning application and avoid lobbying other Members.
- Members must not put improper pressure on Authority Officers for a particular recommendation or do anything which compromises, or is likely to compromise, an Officer's impartiality.
- Where a Member has been lobbied about the application prior to a planning decision being made by the Authority Committee, they must disclose that fact at the meeting stating whether they have been lobbied to support or refuse the application, or both. The minutes shall record all such declarations made.

#### **5. Planning Applications by Members and the Authority itself**

Whilst it is perfectly legitimate for Members to seek planning permission for their own development within the National Park, care must be taken to ensure they are handled in such a way as to give no grounds for accusations of favouritism.

With this in mind:

- When an application is submitted by a serving Member, or by their spouse, civil partner or person with whom they are living as though married/civil partners, they should disclose a pecuniary interest and take no part in the consideration and determination of the application.
- Applications submitted by a serving Member, or by their spouse, civil partner or person with whom they are living as though married/civil partners, will be determined by the Authority Committee, not by an Officer under delegated powers.
- Members should also consider the potential for bias or perception of bias if an application is made by a close relative or close friend. In this instance, Members are advised to contact the Monitoring Officer for guidance. Depending on the circumstances, it may be necessary to withdraw from the consideration and determination of the application to ensure public confidence in decision making.
- Members who act as agents or advisers for people making planning applications should declare an interest and play no part in the decision-making process.

Proposals for the Authority's own development will be treated with the same transparency and impartiality as those of private developers and in accordance with the appropriate Regulations made under Town & Country Planning legislation. Authority applications for development will be brought to the Authority Committee for determination and will not be determined under the Authority's Scheme of Delegation.

## 6. Pre-application discussions

The Authority endorses the longstanding practice of its Planning Officers being involved in pre-application discussions with applicants and/or their advisers. Such discussions can be of considerable benefit to both the applicant and the Authority.

The Authority acknowledges advice from the Local Government Association, the National Planning Forum, the Planning Advisory Service (and previous advice from the Audit Commission) that Member involvement in such discussions can on appropriate occasions be beneficial, provided it is carried out within carefully defined limits. It is particularly concerned that unless carefully managed, such discussions can be seen by objectors to become part of a lobbying process on the part of the applicant.

The Authority has adopted the following guidelines:

- Member involvement may be appropriate in any application which raises issues of particular importance in relation to the implementation of the Development Plan and which is so identified by the Chief Executive in consultation with the Deputy Chairperson (Planning) or in their absence the Deputy Chairperson of the Authority. Given the nature of most planning applications in the National Park it is expected that few such discussions will be necessary.
- At any such meeting the appropriate Member(s) supported by Officers will attend, and it will be made clear to applicants that any discussions will not bind the Authority to making any particular decision and that any views expressed will be personal and provisional.
- Officers will proffer consistent advice based upon the development plan and material planning considerations. They should make clear whether they or the Authority Committee will make the final decision on any application submitted.
- Members should be careful not to give separate advice on the interpretation of the development plan and other material planning considerations.

- Officers will prepare a written note of all such meetings. Such a note should be placed on the appropriate file as a public record of what took place.
- If appropriate, other consultees may be involved in the pre-application meetings. The Chief Executive will identify such cases in consultation with the Deputy Chairperson (Planning) or in their absence the Deputy Chairperson of the Authority.

## 7. Authority Committee Site Visits

Site visits will only be used where the expected benefit is substantial.

In deciding whether a site visit is to be held the Authority Committee (or for site visits in advance of a Committee meeting, the Deputy Chairperson (Planning), in conjunction with the Chief Executive) will observe the following guiding principles:

- The impact of the proposed development is difficult to visualise from the plans and any supporting material including photographs;
- There is good reason why the comments of the applicant, objectors and supporters cannot be expressed adequately in writing;
- The proposal is particularly contentious.

Where the Authority Committee, during consideration of an application, resolves to hold a site visit it shall determine which issues shall be examined on site. A record of these issues shall be made in the minutes.

Where the Deputy Chairperson (Planning), in conjunction with the Chief Executive, judges that a site visit *in advance of* an Authority Committee Meeting would provide substantial benefits and lead to greater efficiency of business at that forthcoming Authority Committee, a site visit may be arranged prior to that meeting. A site visit in advance of the Authority Meeting shall take place after the agenda has been published so as to inform site visit Members of the key planning considerations and other details that require scrutiny.

A site visit group should comprise a minimum of 5 Members.

A copy of the procedure for site visits is attached at the end of this guidance. In particular, Members should ensure they do not enter into any discussion with the applicant or third parties, either individually or jointly with other Members. Members should instead stay together as a group, direct questions through the meeting Chairperson and keep the meeting fact led, not opinion led.

## 8. Individual Site Visits

If Members wish to view an application site they should ideally do so as part of a formal Authority Committee site visit. Not all applications will warrant a formal visit and it is open to Members to view a site individually, but *only* if they feel it is essential to their consideration of the application and great care is taken in doing so. Members should note the following when considering a site visit:

- Individual visits should be made from public view points.
- Members should not discuss the application with any applicant/agent or third party.
- Entering a privately-owned site that is subject to or is potentially affected by a planning proposal being brought to Authority Committee for determination, may give rise to the impression of bias.

## 9. Decision Contrary to Officer Recommendations and/or the Development Plan

It is a legal requirement that planning applications must be determined in accordance with the policies of the Development Plan unless material considerations indicate otherwise: s38A Planning & Compensation Act 2004.

Where an application that is not in accordance with the Development Plan is recommended for approval, the application may be required to be advertised as such, in accordance with the regulations. The material considerations which led to the conclusion to approve shall be identified and the justification for overriding the Development Plan must be clearly demonstrated. In appropriate cases, the application may be referred to the Secretary of State who may decide to call the application in for their own determination or remit it to the Authority to decide.

**If the Authority Committee makes a decision contrary to an Officer's recommendation (whether for approval or refusal) a detailed minute of the Committee's reasons should be made and a copy placed on the application file. In all cases the Committee's reasons shall be clear and convincing and be demonstrably related to planning considerations.**

If it is felt that the reasons given to approve/refuse an application are not substantiated by planning evidence, the Chief Executive, or their representative at an Authority Committee, may stop proceedings and request the opportunity to report further on the application to the next meeting of the Authority Committee. Where such a request is made, the Authority Committee shall accede to that request.

## 10. Guidance for 'Dual-Hatted' Members – including Parish Members

Where a Member is also a parish councillor, caution is advised in considering development matters at parish level. Parish councils/parish meetings are consultees in the planning process and may be asked for comments on an application at a time when not all relevant material planning considerations have become known and the full implications of an application investigated.

Members should therefore:

- At the parish level, make it clear that they will reconsider the matter at Authority level, taking into account all available evidence and representations at that higher tier of decision making.
- At the Authority Committee, declare a personal interest arising from their membership of the parish council/parish meeting and make it clear that the parish's view does not bind them and they are considering the matter afresh.
- Consider if they are so closely involved with an application at the local level that they would not be viewed as impartial and therefore it would be inappropriate for them to participate in the debate and vote.

The same procedures should be followed by Members who sit on any other body that is a consultee on an application. Advice is available from the Monitoring Officer if a Member is in doubt of the appropriate course of action.

## Planning Site Visits – Procedural Guide

This note has been prepared to advise anyone who is invited to attend a planning site visit.

Site visits are carried out so that Exmoor National Park Authority Members can review sites and gather factual information about a planning proposal. This will help them make an informed decision at a subsequent Authority Committee meeting, when the Planning Officer's presentation will set out the factual information gained so that all Authority Members have the same information, whether or not they attended the site visit.

It is important to note that a site visit is a [fact-finding exercise](#) and is not an opportunity for Authority Members or other attendees to debate the merits of the application. During a site visit Members of the Authority Committee will seek clarification of matters of fact and will not express any opinion.

Members of the public have the opportunity to express their views about an application through written representations to Planning Officers and/or by participating in public speaking at the Authority meeting when the application is considered (see '[Having Your Say – Public Speaking at Authority meetings](#)' – attached to this note).

### Procedure at planning site visits

#### 1. Arrangements

- 1.1 Site visits are held only when necessary, for example in order to help Members understand specific and important issues affecting the site, or if the issues are complex or difficult to envisage, or on the recommendation of Planning Officers.
- 1.2 Site visits can be arranged either when the Authority Committee defer an application to visit the site or when the Deputy Chairperson (Planning), in conjunction with the Chief Executive, judge that a site visit in advance of the Authority Committee meeting will bring substantial benefits and improve the efficiency of the meeting. The reasons for holding a site visit will be recorded in the minutes.
- 1.2 A minimum of five Members should be appointed to attend the site visit.
- 1.3 Dates are set aside for possible site visits (the Friday preceding the Committee meeting if the site visit is to be in advance of the meeting, or the Friday preceding the next Committee meeting if the application has been deferred for a site visit).

#### 2. Attendance - planning site visits will be attended by:

- 2.1 A group of Exmoor National Park Authority members as appointed by the Authority Committee.
- 2.2 The Head of Planning and Sustainable Development and/or a Planning Officer as their representative, and any other Authority Officers as necessary to advise on the issues under consideration, for example Landscape Officer or Conservation Officer.
- 2.3 Representatives from key statutory consultees, for example the Highway Authority or the Environment Agency, as necessary to advise on the issues under consideration.
- 2.4 The following will also be invited to attend:
  - The ward member from the appropriate County or District Council (the ward member may also be a member of Exmoor National Park Authority).
  - Representatives from the appropriate Town/Parish Council or Parish Meeting.
  - The applicant and/or their agent.
  - Anyone who has lodged written representation with Planning Officers about the application. This representation may support or object to the application, or make neutral observations.

### 3. Procedure on Site - the following procedure will be followed:

- 3.1 The Chairperson will open the meeting and will invite everyone to identify themselves.
- 3.2 The Chairperson will then:
  - explain the purpose of the site visit in terms of the specific issues to be considered;
  - confirm that the purpose of the site visit is solely as a fact-finding exercise;
  - confirm that no decision will be taken and the application will be determined at a subsequent Authority meeting;
  - confirm that the site visit is not a forum for debating the merits of the application.
- 3.3 The Head of Planning and Sustainable Development or their representative will outline the nature of the application, paying particular attention to the specific issues that warranted the need for the site visit.
- 3.4 Other Officers of Exmoor National Park Authority will then be invited to comment on the issues under consideration.
- 3.5 Representatives from statutory consultee agencies (eg Highway Authority / Environment Agency) will then be invited to comment on the issues under consideration.
- 3.6 All questions from Members will be made via the Chairperson and will be put to the Planning Officer in the first instance.
- 3.7 At the Chairperson's discretion, the applicant or agent, other invitees or third parties may be asked to provide **factual information** concerning the application but will not be invited to make representations in support of, or objection to, the application. **The Authority recognises that opinions and views about applications are important; and there are opportunities separately for members of the public to support or object to an application by contacting Planning Officers during the application process and/or by participating in public speaking at the Authority meeting when the application is considered.**
- 3.8 The Chairperson will ask if there are any further points of clarification and if so, these will be dealt with as per the above procedure.
- 3.9 The meeting will then be closed and the Chairperson will provide an indication of when the application is likely to be determined by the Authority Committee.
- 3.10 A summary note will be taken of the issues considered and the factual information provided and this will be included in any future report to the Authority Committee.

### 4. Conduct at Site Visits

- 4.1 Everyone attending the site visit must move around the site as one group.
- 4.2 Authority Members will not at any time during the meeting enter into any discussion with the applicant or third parties, or with other Members, separate from the main site visit meeting. Everything said at the site visit must be able to be heard by all parties in attendance.
- 4.3 The visit may involve viewing a proposed development site from a number of locations or vantage points. Please be aware that when moving between locations, Authority Members will not engage in any private conversations with individuals or groups. Again, this is to ensure that everything said at the site visit meeting is heard by everyone.
- 4.4 Authority Members will not express opinions or views on the proposal at any time during the site visit meeting.
- 4.5 Authority Members will not enter into any discussion about the planning proposal with the applicant or third parties after the site visit meeting has been formally closed and will not accept invitations from applicants or agents to view sites privately.



## Having Your Say – Public Speaking at Authority Meetings

**May I Attend a Meeting? Yes.** Members of the public are welcome to attend meetings of the Authority and its Committees. Details of our meetings are on our [website](#). If you are unable to attend, many meetings are audio recorded and recordings are available on our website on the same page as the meeting agenda.

**May I speak at a Meeting? Yes.** Meetings of the Authority and its Committees provide an opportunity for public speaking, so long as you have notified us in advance that you wish to do so (details of how to register to speak are below). The Chairperson will allow members of the public to speak about any general matter relevant to the business of the Authority, or on any item on the Agenda for that meeting. If you wish to speak at a meeting, please contact Judy Coles, Corporate Support Officer, by email, in writing or by telephone by 4pm on the working day before the meeting, indicating a brief summary of the matter you wish to raise. Email: [JColes@exmoor-nationalpark.gov.uk](mailto:JColes@exmoor-nationalpark.gov.uk) or Tel: 01398 322250 or 01398 323665.

**What will happen at the Meeting?** Please sit in the public seating area when you arrive. The Chairperson will open the meeting and each agenda item will be introduced by an Authority Officer and in the case of a planning application, a Planning Officer will usually make a presentation. The Chairperson will then invite anyone who has asked to speak to do so. A separate table, chair and a microphone are set aside for people who wish to speak, so that the meeting can clearly hear what you say. In relation to planning applications, speakers will be invited in the following order:

- members of the public and representatives of groups or organisations (whether they support or object to the application, or wish to make neutral observations) will be invited in the order in which the Authority received notification of a wish to speak;
- representatives from the County, District or Parish Council;
- the applicant and/or their agent.

If you change your mind on the day and decide not to speak, or if you feel everything you wanted to say has already been said by someone else, you can simply advise the Chairperson that this is the case.

**How much time will I have to speak?** You will have two minutes to speak and this will be timed by the Corporate Support Officer. The Chairperson has the discretion to increase this time, however in the interests of fairness to everyone who has registered to speak, the Chairperson will usually ask you to stop if you exceed the two minutes allowed. At the Chairperson's discretion, you may be asked to clarify something you have said; this will be as a matter of clarification only and not to allow extra time for you to speak.

If a number of people wish to speak about the same matter, the Chairperson may ask those concerned to nominate one person to speak, and the nominated person will be allowed to speak for up to 5 minutes.

The time allocated for individual public speakers may be extended only in relation to a matter in which there is considered to be an exceptional degree of public interest. In these circumstances, all speaking slots will be allowed equal periods of time and it will be for the Chairperson to determine the process for public speaking.

**How many times may I speak?** You may speak once per agenda item. If multiple agenda items relate to a single application, single site or Authority matter, public speakers may address the committee once only, regardless of how many agenda items the application or matter comprise.

**Are there any restrictions on what I can say?** You should concentrate on explaining the main points that are important to you and you should try to focus your comments on how your views relate to the relevant planning policy(ies) – remember that it's the planning policies that will guide Members of the Committee in their decision-making. Bear in mind that a short, clear and direct statement or question is often the most effective in communicating a message. You should not say anything frivolous or defamatory, or which concerns a confidential issue that would normally be dealt with in private. In relation to planning applications, you should not speak about the applicant's past behaviour or speculate about what you think their future plans might be.

**What happens after I have spoken?** Members of the Authority Committee will have listened to what you have said but will not enter into debate with you. If you have asked a question, this may be answered by an Authority Officer at the time or noted for consideration in the Committee's debate that follows. If an answer to a question cannot be provided on the day, a written reply will be offered.

After everyone who wishes to speak has done so, the Authority Committee will debate the planning application or other matter, usually in public<sup>1</sup>, and will then make a decision. In the case of planning applications the decision may be to approve or refuse the application, to defer a decision to allow further information to be provided, or to arrange a planning site visit. There will be no further opportunity for anyone who is not an Authority Member or Officer to speak.

**May I communicate with Members of the Authority or Committee during a public meeting? No.** It is important that public meetings are conducted in a proper manner, without interruption, and so that everyone attending the meeting can see and hear all the information presented. Members of the public are therefore asked not to lobby Members immediately before the meeting and may not communicate with Members or pass them notes, documents or photographs during the meeting itself. Members of the public are asked to respect the Committee's deliberations and refrain from commenting during their debate.

However lobbying is an important part of the democratic process and it is open to members of the public to contact members of the Authority/Committee about a particular matter before it is considered in a public meeting. The contact details of Members of the Authority are on our [website](#). At the start of each public meeting, Members of the Authority are required to declare if they have been lobbied about a particular matter.

**I am unable to attend - can I still submit a statement or a question? Yes.**

The Authority welcomes questions or feedback and appreciates that not everyone is able to attend meetings at a particular time or venue. If you are unable to attend, you may ask someone else to attend and read a statement or ask a question on your behalf. If this is the case, please tell us who will be speaking on your behalf and advise them that two minutes will be allowed, ie the same time that would be allowed if you had attended yourself. Alternatively, you may submit a statement or question in writing or by telephone by 4pm on the working day preceding the meeting to Judy Coles, the Corporate Support Officer: Tel: 01398 323665 or [JColes@exmoor-nationalpark.gov.uk](mailto:JColes@exmoor-nationalpark.gov.uk). Your question or statement will be printed and brought to the attention of Members at the meeting. Please note that any written statements submitted to the Authority will be subject to the provisions of the Freedom of Information Act which means the Authority may be obliged to provide the statement to a third party if requested to do so.

**Will I be recorded if I speak at a meeting? Yes.** Many meetings are audio and video recorded to provide greater access for the public to Authority decision-making. By entering the Authority's Committee Room or other meeting venue and speaking during Public Speaking Time you are consenting to being audio and video recorded. Notices will be displayed if a recording of the meeting will be made. All recordings are made available on our website.

---

<sup>1</sup> There are limited circumstances when the Authority Committee may exclude the public in order to consider a confidential matter.

The Authority takes no responsibility for views expressed by members of the public during recorded public meetings. Recordings or any part thereof may be removed from the Authority's website at any time by the Chief Executive or Monitoring Officer if they consider that all or part of the content is, or is likely to be, in breach of any statutory provision or common law doctrine. Examples include breaches of Data Protection, Equality and Human Rights legislation or provisions relating to confidential or exempt information.

**May I film or record a public meeting or use social media to report on the meeting? Yes.** Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings at this meeting. Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairperson so that those present may be made aware. [You should seek permission from individual members of the public attending the meeting prior to filming or distributing their images].

THIS PAGE IS DELIBERATELY LEFT BLANK

## Code of Conduct in Practice – Protocol for Member/Officer Relations

### 11. Introduction

This protocol guides Members and Officers of the Authority in their relations with one another. To a large extent, the protocol is no more than a statement of current practice and convention. The protocol is neither prescriptive nor comprehensive. Accordingly it will be kept under review and amended as necessary. The protocol addresses the issues which most commonly arise.

The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers and the Seven Principles of Public Life, known as the Nolan Principles: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. The shared object of these Codes is to enhance and maintain the integrity of the Authority.

### 12. Principles Governing Member and Officer Relations

The principles governing relations between Members and Officers were explained in the National Code of Local Government Conduct (1990) and still hold true today.

It says this on the relationship:

“23. Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council’s work under the direction and control of the Council, their committees and sub-committees.”

“24. Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to both Councillors and Officers”.

All dealings between Members and Officers should be courteous and respectful and neither party should seek to take advantage of their position. The only basis on which the Authority can lawfully provide support services (e.g. stationery, typing, printing, transport) to Members is to assist them in discharging their role as Members of the Authority. Support services must therefore never be provided for political/campaigning activity or for private purposes.

If Members have reason to complain about the conduct or performance of an Officer, complaints should be made personally to the Chief Executive or in their absence to the Monitoring Officer. It is particularly important that such complaints are made in this way and are not expressed at any other occasion such as at a meeting of the Authority, or its Committees/Sub-committees, or other bodies.

If an Officer has a concern in relation to a Member’s conduct, such concerns should be brought personally to the attention of the Chief Executive or the Monitoring Officer. They will if necessary discuss the matter with the Chairperson of the Authority and, where appropriate, with the Chairperson of the Committee or Sub-committee affected. In the absence of the Chairperson, the Deputy Chairperson should be approached.

### **13. Access to Authority Information**

Members have a statutory right to inspect any Authority document relating to any business for consideration at an Authority Committee or Sub-Committee meeting. This right applies irrespective of whether the Member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right, however, does not extend to documents relating to certain items containing “exempt information” (confidential matters on pink paper).

Members also have the right to request or have access to other Authority documents. On requesting access to additional documents or information, Members should be mindful of the capacity and resources of Officers and consider whether they need to know to enable them to properly perform their duties as a Member of the Authority.

The Freedom of Information Act 2000 provides public access to information held by public authorities. It does this in two ways:

- public authorities are obliged to publish certain information about their activities; and
- members of the public are entitled to request information from public authorities.

The Act covers any recorded information that is held by a public authority in England, Wales and Northern Ireland, and by UK-wide public authorities based in Scotland.

Exemptions to access apply. If a Member of the Authority (or the public) request information under Freedom of Information Act provisions, release of information may be subject to consultation with the Authority’s Monitoring Officer to establish if an exemption to release applies. Members should also be aware that documents and emails they retain that relate to Authority business may be subject to release on receipt of a Freedom of Information request.

Both Members and Officers are subject to the provisions of the Data Protection Act 1998 (and the General Data Protection Regulations 2018 once these are enacted in May 2018). As such, Members are responsible for the protection and lawful use of any third-party personal or sensitive data that is contained within Authority files.

### **14. Preparation of Agendas and Decision Making**

Agendas for meetings of the Authority, its Committees, Sub-committees and other bodies shall be prepared by the Chief Executive (or delegated Officer) in consultation with the appropriate Chairperson (or appropriate Deputy Chairperson in the absence of the Chairperson).

Members wishing to raise an item of urgent business should approach the Chairperson and Chief Executive prior to the start of the meeting at which the request is to be raised. The Chairperson’s ruling on whether an item is urgent is binding and is not open to discussion or debate.

Any Member may ask the Chief Executive to include an item of business on the relevant agenda and where appropriate request a report on the matter. As a matter of courtesy, Members should consult with the appropriate Chairperson before making such a request. The Chief Executive, in consultation with the appropriate Chairperson, may refuse such a request if it is not expedient to Authority business.

A request by a Member for a planning application to be consider by the Authority (as opposed to determination by Planning Officers under the Scheme of Delegation) must be accompanied by sound planning reasons. If such reasons are not present, the Deputy Chairperson of the Authority and Deputy Chairperson (Planning) acting together (or if either is absent, together with Chairperson of the Authority) may decline the Member’s request.

Local government law only allows for decisions to be taken by Committees, Sub-committees or Officers. Individual Members, including Chairpersons, are not allowed to act (save in the case of the Authority Chairperson who may decide that an item of business is 'urgent'). Where action is likely to be required between meetings, the usual method of authorisation is to delegate action to the Chief Executive in consultation with the Authority Chairperson or a group of named Members.

## **15. Chief Executive – Delegated Functions and Reports**

The Authority's Standing Orders set out the various powers delegated to the Chief Executive. These are both specific, for example in relation to the acquisition of land in certain circumstances, and general in relation to any of the Authority's functions.

In exercising their delegated functions, the Chief Executive is obliged to act in accordance with:

- i. The overall policies approved by the Authority or any of its Committees or Subcommittees,
- ii. Standing Orders, including those relating to contracts,
- iii. Financial regulations,
- iv. Equality Legislation, and
- v. Information governance legislation (including the Data Protection Act 1998 and General Data Protection Regulations 2018, once enacted).

Additionally, the Chief Executive is expected in appropriate cases to consult with Members as follows:-

- i. To maintain a close liaison with the Authority's Chairperson and/or the appropriate Committee Chairperson or Sub-Committee Chairperson (or in their absence the appropriate Deputy Chairperson) and
- ii. To consult as necessary with any other Member who has a specific local or specialist interest in the matter.

It is open to the Chief Executive to prepare a report and refer a matter to the Authority, Committee or Sub-Committee for a decision if, in their opinion, the matter is of such a nature that it requires consideration by Members.

## **16. Press and Media**

Relations with the press and media need to be handled with care to ensure the Authority's position on any issue is represented properly. Day to day contact with the press and media will normally be handled by the Chief Executive or delegated Officer. Where necessary they will consult with the Authority Chairperson and/or other Members.

Where a media interview is needed, the Chief Executive and Authority Chairperson will agree on the most appropriate person to speak on the matter on behalf of the Authority.

Members may be approached directly by the press and media and asked to make a comment or to appear for interview. In these circumstances Members are asked, where practicable, to ensure the Chief Executive and/or Authority Chairperson are made aware of the approach. When Members have been authorised to speak on behalf of the Authority, they should ensure their statement is purely factual and/or read from an official Authority statement. If speaking in an unofficial capacity, Members must make it clear that any views they express are not necessarily those of the Authority. In all cases, Members are asked to uphold the good name and integrity of the Authority.