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PENTYRCH COMMUNITY COUNCIL



CYNGOR CYMUNED PENTYRCH

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## MEMBERS PLANNING CODE OF GOOD PRACTICE

**This Code is adapted from that of Cardiff Council.**

**PCC is not a planning authority and cannot approve or refuse a planning application. It can only submit responses to applications as a statutory consultee.**

### 1 Purpose of the Code

This Code has been prepared for the guidance of Officers and Members in their dealings with planning matters. This includes decision-making meetings of Council or less formal occasions such as meetings with officers or the public or consultative meetings.

Whilst much of this Code of Good Practice relates to responses to planning applications it also applies to discussions / submission relating to the preparation of the Local Development Plan. The Code has been prepared in accordance with: -

- Code of Conduct for Members and Co-opted Members of PCC

The Code has the following objectives:-

- To guide and protect Officers and Members in dealing with planning related matters from criticism and challenge
- To inform potential developers and members of the general public of the standards adopted by PCC
- To ensure that, in the planning process, there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

### 2 Key Principles

Planning decisions made by Cardiff, PCC's planning authority, can have a considerable effect on the value of land, the nature of its development and on the lives and amenities of people living in the vicinity. The process of arriving at decisions on a planning matter must be open and transparent. The involvement of both Officers and Members must be clearly understood. The main principles which Members should have clear regard for are:-

- The key purpose of planning is to control development in the public interest
- Your overriding duty as a Councillor is to the whole local community
- You have a special duty to your constituents including those who do not vote for you
- Your role as a member of PCC is to make planning decisions openly, impartially, with sound judgement, and for justifiable reasons
- Whilst you may be strongly influenced by the views of others and of your party in particular it is your responsibility alone to decide what view to take on any question which Councillors have to decide
- You should never do anything as a Councillor, which you could not justify, to the public. Your conduct and what the public believes about your conduct will affect the reputation of the Council
- It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct
- You should treat with extreme caution any offer of gift or favour or hospitality that is made to you personally. You are personally responsible for all decisions connected to the

acceptance of such gifts or hospitality and for avoiding the risk of damage to public confidence in local government

- You should ensure that you have regard to proper planning considerations and are impartial in a way which does not give rise to public suspicion or mistrust
- The Code applies to all decisions of the Council on planning related matters.

### **3 Relationship to the Code of Conduct for Members and Co-Opted Members of PCC**

The Code of Conduct adopted by PCC in 2016 sets out requirements and guidance for Members on the disclosure and registration of interests. Not only should impropriety be avoided but also any appearance or ground for suspicion of improper conduct. When considering any planning matter you should have primary regard for the Code of Conduct, and particularly the requirement to properly declare all interests:-

- Do** apply the rules in the Code of Conduct for Members first which must always be complied with
- Do** then apply the rules in this planning Code of Best Practice

### **4 Declaration of Members' Interests**

When considering planning matters Members may find that they need to:

- Declare a personal and / or prejudicial interest or a member may at any time declare a personal interest under the Members Code of Conduct however it is preferable to disclose your interest at the beginning of the meeting and not just at the commencement of the discussion on that particular matter.

**Where your interest is personal** you may participate in the debate and decision.

**Where your interest is prejudicial:**

- Do Not** participate or give the appearance of trying to participate in the making of any decision on the matter. Leave the room during the discussion and decision.
- Do Not** try to represent Ward/local views.
- Do Not** seek or accept any preferential treatment or place yourself in a position that could lead the public to see that you are receiving preferential treatment because of your position as a Councillor.

### **5 Contact with Applicants, Developers and Objectors**

**Do not** agree to any formal meeting with applicants, developers or groups of Objectors. There may be exceptional circumstances where meetings do take place. Such meetings must always have been formally convened by the Clerk. The Clerk will then ensure that those present at the meeting are advised from the start that the discussions will not bind PCC to any particular course of action, that the meeting is properly recorded and that a record of the meeting will be made available for public inspection.

- Do** refer those who approach you for planning committee procedure advice to the Clerk
- Do** report to the Clerk any significant contact with an applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them and ensure that this is recorded.
- Do not** attend any private planning presentation unless the Clerk is present. These may be differentiated from major public presentations when members may seek information but should not enter into discussions or express a view
- Do** remember that the presentation is not part of the formal process of debate and any PCC decision will be carried out by the PCC's Planning Committee or full council.
- 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
- Do** ask relevant questions for the purposes of clarifying your understanding of the proposals
- Do** explain to those lobbying or attempting to lobby you that whilst you can listen to what is said it prejudices your impartiality and therefore your ability to participate in PCC's decision-making to express an intention to vote one way or another, or such a firm point of view which amounts to the same thing

- **Do** remember that your overriding duty is to the whole community not just the people in your local area, and taking account of the need to make decisions impartially, you should not improperly favour or appear to improperly favour any person, company, group or locality
- **Do not** accept any gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable ensure that it is of the minimum and its acceptance is declared as soon as possible (remembering to register any gift with any value).
- **Do** inform the Clerk where you feel that you have been exposed to undue or excessive lobbying or approaches
- **Do** note that unless you have a personal and prejudicial interest you will not have breached this Planning Code of Good Practice through listening or receiving view points from residents or other interested parties making comments to residents, interested parties, other members or appropriate officers providing they do not consist of or amount to prejudging the issue. Provided that you make clear that you are keeping an open mind, seeking information through appropriate channels or being a vehicle for the expression of opinion or speaking at the meeting as a ward member provided you explain your actions at the start of the meeting or item and make it clear that having expressed the opinion or ward view you have not committed yourself to vote in accordance with those views and you will make up your own mind having heard all of the facts and listened to the debate

## **6 Ward Interests**

A PCC Planning Committee Member who represents a ward affected by a particular application is in a difficult position particularly if it is a controversial application around which a lot of lobbying takes place. There is a balance to be struck between the duty to be an active ward representative and the overriding duty as a Councillor to the whole local community. In these circumstances

- **Do not** lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do not** 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
- **Do not** become a Member or lead or represent an organisation whose primary purpose is to lobby, to promote or oppose specific planning proposals. If you do you are likely to have a personal and prejudicial interest and will have to withdraw from any meeting
- **Do** of course join general interest groups which reflect your areas of interest or which concentrate on issues beyond particular planning proposals (such as your local civic society) but make sure that you disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

## **7 The Decision Making Process**

A decision on a planning application cannot be made before the committee meeting when all of the relevant information is to hand, any political group meeting prior to a Committee meeting should not be used to decide how Councillors should vote.

- **Do** come to meetings with an open mind and demonstrate that you are open minded
- **Do** come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary defer and record the reasons for deferral.
- **Do not** vote or take part in the meeting's discussions on a proposal unless you have been present to hear the debate.

- **Do not** allow members of the public to communicate with you during the committee's proceedings (or in writing) other than through the scheme for public speaking as this may give the appearance of bias
- **Do** ensure that you comply with PCC's procedures in respect of public speaking

## **8 Training**

Training on planning matters is available from Planning Aid Wales and Members will be informed when it is available.

## **9 Sanctions**

The purpose of this Code is to provide guidance to Members in relation to the performance of PCC's responses to planning applications. The application of and adherence to the Code is intended to build public confidence in PCC. The Code does not remove the responsibility of Members to exercise their statutory discretion to determine the merits of individual applications or proposals.

A failure to adhere to the Code gives rise to potential consequences to the Council and individual Members, especially if this results in a pattern of inconsistency. The normal sanction of the democratic process is through the ballot box. Councillors may make a reputation in their community not only for their beliefs but also for their general conduct. Consistency and fairness are important qualities in the public eye and they are vital to the conduct of the Planning Committee. Beyond the normal democratic process a number of specific consequences can be identified

### □ **The Local Government Ombudsman**

Councillors who breach the national Code of Conduct may open themselves up to complaints of misconduct which will be dealt with by the Local Government Ombudsman. The Local Government Ombudsman has extensive powers to investigate a complaint. If a complaint is upheld a formal report can be sent either to the Cardiff's Standards and Ethics Committee or the Adjudication Panel for Wales. Such complaints may be referred to the Cardiff's Monitoring Officer for investigation and the Standards & Ethics Committee for determination and remedy.

### □ **The Adjudication Panel for Wales**

The Adjudication Panel for Wales is an independent body established under Part III of the Local Government Act 2000. The role of the panel is to form tribunals to consider whether Members have breached their authority's statutory Code of Conduct. The panel will also hear appeals by Members against decisions of the Council's Standards and Ethics Committee.

Adopted by Pentyrch Community Council March 16 2020

**Reaffirmed 8.6.2022**

**Review : June 2023**