

APPENDIX 2

PROTOCOL ON PLANNING PROCEDURE – SECTION 8 AMENDED FOLLOWING RESOLUTION OF COUNCIL 19TH NOVEMBER 2008

8. Allegations of Bias

As a Member of the Planning Regulatory Committee the time for decision making is after the Members have heard all relevant considerations i.e. after the application has been presented to the Members in the Committee meeting and when the presentation of the application is completed. Therefore, a decision should not be made before the agenda is sent out, at a site visit or immediately before the meeting begins. If a Member has made their mind up before the application is fully presented then this renders the decision open to challenge. This would be on the basis that the application was predetermined, was not considered fairly and that the Member's conduct showed bias. To predetermine an application flies in the face of the principle of the rule 'to hear both sides'.

Council, at its meeting on the 19th November 2008, resolved that Cabinet Members should not sit on the Planning Regulatory Committee for items directly related to those which have been previously considered by Cabinet (whether they were present for that particular Cabinet item or not). The rationale for this is that where the Council is the applicant or the landowner, and a Member is both a Member of the Planning Committee and also a Cabinet Member with ongoing land-owning responsibilities, it is arguable that the issue of predetermination and bias might arise as a result of the Member's perceived proximity to the proposal through discussions in Cabinet. The Council resolution removes this risk.

However, the simple fact that a Member has been involved in a decision to promote the development of land in the public interest, does not necessarily prevent them from making decisions on the matters of detail. Members approving specific land use allocations in a Local Development Framework for example, would not be prevented from deciding subsequent planning applications. They would be expected to use their decision making abilities to ensure that schemes conform with the requirements of the Framework.