



GWINEAR-GWITHIAN PARISH COUNCIL

PLANNING POLICY

Guidance for Councillors and staff Dealing with Planning Matters

1. Introduction

1.1 This Guidance has been written to inform all parties of Gwinear-Gwithian Parish Council's standards in its operation of the town and country planning system within the Parish.

1.2 This Guidance applies to all Gwinear-Gwithian Parish Councillors and staff involved in operating the planning system.

1.3 The successful operation of the planning system in the Parish depends upon the Council always acting in a way which is clearly seen to be fair and impartial.

1.4 Councillors and staff are required to read this Guidance and any relevant policies to this document (see item 11) thoroughly and to put it into practice consistently.

2. Site Visits

2.1 Planning related site visits should only take place where the benefit of undertaking such a visit is clear and substantial, normally when the impact of the development is difficult to visualise from the plans and supporting material.

2.2 A site visit is essentially about gathering information – it is not a decision-making forum.

2.3 To avoid any risks of being seen as impartial or unfair when undertaking a site visit, discussing the planning application with an applicant or a third party should be avoided.

2.4 Avoid expressing opinions or views to anyone (including other councillors) during the course of the site visit.

2.5 Parish Councils do not have a legal power of entry onto private land to inspect for planning purposes. You should view the site from publicly accessible vantage points, do not trespass.

3. Health & Safety

3.1 Site visits must always be undertaken by two or more councillors.

3.2 Site visits should be taken at minimal cost to the Parish Council.

3.3 A site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting evidence may be needed.

3.4 It is the duty of both Councillors and staff to assess whether they are required to visit a site within their planning zone, if you do not feel that you should undertake a site visit or are not comfortable visiting a site please do not do so and notify the Council accordingly.

3.5 I.D. badges will be given to each Councillor and it is their responsibility to keep these safe and ensure they are worn whilst on any Council business.

3.6 Protective clothing/head wear will be kept in the parish office (Gwinear-Gwithian Parish Hall, Copper Meadows, Reawla, Gwinear TR27 5FN) and it is the duty of the Councillor to assess whether he/she needs protective clothing for a site visit and ensure he/she collects any protective clothing needed prior to a site visit.

3.7 Councillors looking to visit a site on Council business of any nature should not do so alone (see 3.1) if another Councillor is not available Council staff should be asked to attend. Councillors and staff should ensure that somebody is aware of their site visit and that they carry a mobile phone at all times.

3.8 Councillors and staff should dress appropriately when visiting sites and should wear high visibility clothing and appropriate footwear and head wear where necessary.
(see 3.6 & 3.9)

3.9 It is the duty of the Councillor/staff member to assess whether it is safe to visit the site by ensuring;

- a. safe parking is provided
- b. you have carefully read any notices or signs
- c. making sure that access and egress is safe and that you are aware of the layout of your environment in case you need to evacuate quickly
- d. that you are aware of any fire safety precautions and equipment
- e. that any working machinery is a safe distance away and is being used safely
- f. that appropriate safety clothing is being worn particularly if there is a potential hazard from above from scaffolding or other equipment
- g. that all openings to the ground are protected
- h. all hazardous materials to include gas, fuel and electric are properly contained and are a safe distance away
- i. suitable lighting is provided
- j. there are no trip hazards
- k. any ladders are secured and in good condition

3.10 Councillors should try to make landowners of the sites/neighbouring land they are visiting aware of who they are and why they are visiting as soon as practically possible and should wear their i.d. card at all times (see 3.5)

3.11 Councillors should also remember that when undertaking a site visit on private property they should be aware of this fact and not enter, care should be taken not to interfere with or damage any property.

4. General role and conduct of Councillors and Officers

4.1 Legislation emphasises the overriding requirement that the public are entitled to expect the highest standards of conduct and probity by all persons holding public office. There are a number of statutory provisions and Codes setting standards which must be followed if the public perception of the integrity of public service, particularly town and country planning, is to be maintained and improved. Councillors are reminded that they are required to comply with the statutory provisions on the disclosure of personal and prejudicial interests as set out in the Members' Code of Conduct and Council Standing Orders.

4.2 This Guidance provides specific advice for Councillors and staff involved in planning matters. A key principle is that Councillors should represent their Parishioners as a body and vote in the interests of the Parish as a whole. Councillors should take impartial account of all views expressed, they should not be biased towards any person, company, group or locality, nor put themselves in a position where they appear to be so biased.

4.3 Councillors and staff should not accept gifts of any kind, nor should they accept hospitality. However, if a degree of hospitality is truly unavoidable, it should be kept to the minimum and its receipt declared as soon as possible. Councillors should send written notice to the Clerk.

5. Declaration and registration of interests

5.1 Councillors should observe strictly the Members' Code of Conduct in declaring any personal or prejudicial interests.

5.2 Where any changes occur to Councillors' interests, whether by way of addition or deletion, they should be notified by the Councillor concerned to the Clerk as soon as they occur.

5.3 The guiding rule is that a Councillor should not use his/her position to further a private or personal interest, rather than the general public interest, or give grounds for any allegation that such misuse of a position has occurred. The responsibility for declaring a personal and/or prejudicial interest lies with the individual Councillor who, if in doubt, should seek advice.

5.4 An individual Councillor may find that Councillorship of another tier of local government may constitute an interest. Although the Councillor may have no direct financial interest, the organisation he belongs to might have an interest. In such cases participation in any Parish Council decision making where the other organisation would benefit financially from decisions or actions would not be appropriate. Members who may have 'dual-hatted' roles should seek advice from either the Clerk or the Monitoring Officer of the Local Authority as to its application to them in particular circumstances.

6. Lobbying of and by Councillors, and attendance at public meetings by staff and Councillors

6.1 When Councillors undertake their Parish roles, it is inevitable that they will be subject to lobbying by interested parties and the public on planning matters and specific planning applications. When Councillors are lobbied, they need to exercise great care to maintain the Council's, and indeed the Councillor's own, integrity and the public perception of the town and country planning process.

6.2 Councillors involved in making decisions on planning matters and applications who find themselves being lobbied should take active steps to explain that, whilst they can listen to what is said, it would prejudice their impartiality if they expressed a conclusive point of view or any fixed intention to vote one way or another before the Parish Council has reached a decision. Members who can make a decision on a planning matter who have been lobbied and have agreed or can be seen to openly advocate a particular course of action must declare they have formed a concluded view on the planning matter or application at the relevant meeting and must consider leaving the room and take no part in the debate or vote on the planning matter or application.

6.3 Councillors involved in the determination of planning matters should listen to all points of view about planning proposals and refer persons who require planning or procedural advice to planning officers of Cornwall Council. Councillors should not indicate (or give the impression of) conclusive support or opposition to a proposal, or declare their voting intention before the meeting at which a decision is to be taken by them. To do so without all relevant information and views, would be unfair, prejudicial and may amount to maladministration.

6.4 Taking account of the need to make decisions impartially, Councillors involved in making decisions on planning matters and applications must weigh up all the material considerations reported within the planning file, written report and any updates available at or before each meeting where a decision is to be made. They should not be biased (or appear to be biased) towards any person, company, group or locality. Councillors who commit themselves firmly to a particular view on a planning issue, prior to its consideration at a meeting, must decide whether the public (or other interested body) would believe that they have prejudiced their position and are incapable of weighing up all the material considerations. If the Councillor feels that the public would believe he/she had come to a conclusive view on the planning matter or application before the meeting, then he/she should consider not taking part in the debate and not voting on the issue.

6.5 Where the Clerk believes that a Councillor involved in making decisions on planning matters and applications has prejudiced his/her position by expressing a conclusive view on a planning matter or application before its determination by the meeting, the Clerk will advise the Councillor that they should consider carefully whether to take part in the debate, or vote on the application.

6.6 Whilst Councillors involved in making decisions on planning matters and applications will begin to form a view as more information and options become available, a decision can only be taken at full Council when all available information is to hand and has been considered. Individual Councillors should reach their conclusions based on all available evidence on an application or other planning matter.

6.7 Councillors should exercise great care when expressing their firm support for, or opposition to, a proposal in their ward before it has been fully considered by the relevant meeting. Such actions can be easily misunderstood by parties to the application and by the general public who might assume that Councillors have arrived at conclusive decisions too early. In this regard, Councillors should not lobby other Councillors about such proposals in a way that could lead to their failing to make an impartial judgement on the planning merits of these cases when making decisions at Council meetings.

6.8 When attending public meetings prior to discussion at Parish Council level, Councillors should take great care to maintain their impartial role as a Councillor, listen to all the points of view expressed by the speakers and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.

6.9 If Councillors consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Clerk.

7. Pre-application and Pre-decision discussions

7.1 Gwinear-Gwithian Parish Council joined the pre application agreement scheme put together by the Cornwall Association of Local Council's on the 28th November 2016 and those documents should be read in conjunction with this policy.

7.2 The Parish Council should firstly look to the Planning department of Cornwall Council for advice and guidance on pre-application and pre-decision discussions.

7.3 Councillors wishing to be involved in pre-application discussions and pre-decision discussions with applicants and agents on important planning issues should not do so without the permission of the full Council. If a decision is made by full Council that pre-application discussions and pre-decision discussions are needed these must be carried out by more than one Councillor along with either a member of Council staff or an officer of another agency (ie highways, planning officer), this must be agreed and minuted at full Council. It must always be made clear by Councillors and staff at the outset of discussions that they will not bind the Council to make a particular decision and that any views expressed are their provisional professional opinions.

7.4 Pre-application presentations or other presentations by applicants to full Council should be limited to the development proposal and a question and answer session on factual matters. Members must maintain an impartial listening role. Questions to clarify aspects of a proposal or the expressions of policy concerns are legitimate as long as they do not develop into negotiations. It should be made clear at the outset of the meeting that discussions are not binding and that views expressed are not part of the determination process.

7.5 At each meeting where a pre-application is to be presented the Parish Council will make the following clear:-

"The Parish Council 'without prejudice' may ask questions and raise local issues during pre-application discussions at this meeting which are based on the information currently available but this in no way indicates a formal decision by the Parish Council. The Parish Council will only make a formal decision on full planning applications when all the relevant information is before them"

8. Complaints and record keeping

8.1 All Councillors should make themselves aware of the Parish Council's Complaints procedure.

8.2 In order that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate and any Councillor attending a planning site or any other site for Council business should inform the Clerk of this at the appropriate meeting so that it may be recorded in the minutes.

8.3 Planning correspondence will be kept for a period of 6 months, plans and decision notices can be found at www.cornwall.gov.uk

8.4 The Clerk is the main point of contact between the planning office of Cornwall Council and the Parish Council and will receive both verbal and written information regarding planning issues on behalf of the Council.

8.5 It is the Clerks duty to ensure that all information required for the Parish Council to make a decision on an application or planning matter is available at the appropriate meeting.

8.6 Any Councillor wishing to see planning history information for previous applications must inform the Clerk at least 2 days before the meeting so that the information can be located in the archive system in good time.

9. Planning Applications at meetings

9.1 The Council will deal with planning applications as soon as practically possible and will consult the public accordingly through the Council agenda.

9.2 Planning applications are dealt with at the next full Council meeting after they are received where possible (see 10 Non-Material Amendments and 11 Cornwall Council Protocol).

9.3 The Clerk will display the application to the meeting via a projector and circulate any reports received after the agenda has been posted as soon as received.

9.4 The lead Planning Zone Councillor should give a written report where possible, this report should outline the application and take account of any relevant policies and guidance within the Neighbourhood planning training document. The Planning Zone Councillor should submit their written report to the clerk as soon as possible prior to the meeting to which the application will be discussed.

9.5 The decision on an application can be deferred at a full Council meeting but if a decision cannot be made within the usual 21 day period of consultation given by Cornwall Council, the Clerk should notify the planning officer as soon as possible.

9.6 The Clerk will apply for a Freedom of Information request to CC for a copy of the Economic Viability Assessment documents, to any full planning application which includes an affordable housing element, as soon as the Parish Council is consulted on any such application.

10. Non-Material Amendments

10.1 If time allows the Non-Material Amendment will be an agenda item for next meeting if not.

10.2 The Clerk will email non-material details to all Councillors once received.

10.3 Councillors must comment back to the Clerk within 5 working days.

10.4 Nominated Planning Zone Councillors allocated to the original application are given delegated responsibility to comment on behalf of the PC taking into account comments made within the 10 day deadline.

11. Cornwall Council Protocol

11.1 Where the view of the Cornwall Council Planning officer for the application is different from the view of the Parish Council, the Cornwall Council protocol is as follows;

In accordance with the Protocol for Local Councils, you now have three options as follows:-

- 1. Agree with the recommendation above;*
- 2. Agree to disagree; or*
- 3. Disagree with the recommendation and request consideration by the Planning Committee, which I will then discuss with the Divisional Member who may or may not agree with your views.*

Please tell me which option you wish to choose within 5 working days from the date of this communication. If option 3 is selected, please note that the Protocol explains the importance of a representative from your Council attending and speaking at the Planning Committee meeting so the Committee can fully understand your Council's reasons for proposing a decision which is contrary to that of the Case Officer.

If I do not hear from you within 5 working days, a delegated decision will be issued in accordance with my recommendation.

11.2 Once the protocol above is received the Clerk shall send the planning officers email to all Councillors as soon as possible, outlining the date Councillors must respond. It is mandatory that Councillor's must respond to the email if possible, even if it is just to say no comment.

11.3 The clerk will then take the majority view of those Councillors that responded as the Parish Council's decision and either relay this to the Planning officer for options 1 and 2 above or for option 3 discuss that decision with the Divisional Member who will have the ultimate decision for option 3.

11.4 The clerk will advise Councillors of the majority view and liaise with the lead and support Parish Councillors for that application if option 3 is agreed with the Divisional Member.

11.5 The lead and support Councillors will have the authority of the Parish Council for the application if the Divisional Member agrees to take it to Cornwall Council Planning Committee and the lead/support Councillors shall put together the Parish Council's response for Committee and shall speak at the meeting on behalf of the Council.

12. Documents relevant to this policy

- Parish Council standing orders & financial regulations
- Parish Council Code of Conduct
- Parish Council Health & Safety Policy
- Parish Council Complaints Procedure
- Councillors registration of members interest
- Parish Council planning zone map
- Gwinear-Gwithian Neighbourhood Plan
- Cornwall Local Plan
- Parish Council Neighbourhood planning training
- CALC/CC - Pre-application Planning Protocol