

# Little Gaddesden Parish Council

## POLICY ON PLANNING CONSULTATION – 30<sup>TH</sup> MARCH 2021

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Review March 2023

- a) To improve the speed, efficiency and consistency of our response to planning applications a Working Group will be appointed to run from 1<sup>st</sup> April until 31<sup>st</sup> March each year to review applications, liaise with applicants/agents and planning officers as necessary, make recommendations to the full Council and attend Dacorum Development Management Committee meetings as appropriate.
- b) The members for 2021-22 will be Cllrs. (to be determined). A Lead Member will be appointed, currently Cllr. (to be determined). Should any of the Working Party have to declare an interest and not be involved in the discussion or not be involved in the voting then that member should ask one of the remaining Councillors to step in to the Working Group so that there is sufficient scrutiny of the application.

The remaining Councillors (to be determined) will inform the Working Group regarding any information they receive pertaining to planning applications, (i.e. approaches from neighbours etc.), or to express their opinions.

- c) The Clerk will forward the Dacorum application notification e-mail and link to the Working Group members and maintain a spreadsheet of applications to ensure timely responses are made online.

As the Parish Council is usually given 21 days to comment on applications but Parish Meetings are held monthly there will be a regular need to obtain extensions of time. The Lead Member of the Working Group will seek an extension of time from the Planning Case Officer responsible for that application.

- d) The Lead Member of the Working Group will determine each planning application's category.

e) **Categories for Planning Applications**

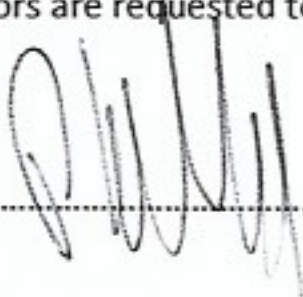
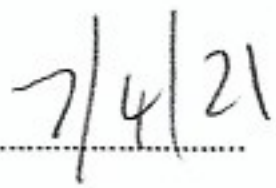
- 1) Works to trees
- 2) Non contentious extensions to existing buildings
- 3) Garages, outbuildings etc.

Categories 1, 2 and 3 to be reviewed by the Working Group and recommendation to be discussed by the Working Group but no recommendation will be made to the full Parish Council until after the public have had an opportunity to make representations at the Parish Meeting **and such representations have been properly considered.**

- 4) Contentious (high impact) extensions
- 5) 'Knock down' and rebuilds
- 6) Miscellaneous applications and responses to planning appeals

Categories 4, 5 and 6 to be reviewed by Working Group and recommendation to be discussed by all Councillors prior to the meeting but no recommendations will be made until after the public have had an opportunity to make representations at the Parish Meeting and such representations have been properly considered.

- f) The Lead Member of the Working Group will be responsible for liaising with the rest of the Working group (or all Councillors) by e-mail or by holding an informal meeting either on site or at a member's house as appropriate. However, all Councillors involved with a particular application are asked to respond quickly to the Lead Member so that the Lead Member can prepare recommendations in a timely manner for the Parish Council meeting.
- g) Prior to submission of the response by the Clerk, the Lead Member may need to clarify any detail of the application or the draft consultation response with the Planning Case Officer at Dacorum Borough Council.
- h) The Clerk will submit the consultation responses that have been approved at the Parish Council meeting, using the Dacorum Planning portal.
- i) Where a consultation response requires the matter to be referred to the Dacorum Borough Council Development Management Committee, the Parish Council will ensure that a Councillor attends and presents the issues on behalf of the Parish Council. Either the Lead Member or the Clerk can notify the Secretary to the Development Management Committee that the Parish Council wishes to attend and speak.
- j) The Planning Code of Practice annexed to this document was prepared by the Solicitor to Dacorum Borough Council and amended by Councillors to suit the needs of the Parish Council. The code represents best practice and Councillors are requested to follow its guidance.

Signed by the Chair of the Parish Council..........Date.....

## PLANNING CODE OF PRACTICE

### 1. Purpose of this Code

- 1.1 The main objectives of this Code are to guide Parish Councillors in dealing with planning-related matters and to inform potential developers and the public generally of the standards adopted by Parish Councils in relation to planning applications. The Planning Code of Practice is, in addition to the Code of Conduct for Councillors, adopted by the Parish Council under the provisions of the Local Government Act 2000. The purpose of the Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters and to ensure that Councillors are, and are perceived as being, impartial and accountable.
- 1.2 This code takes into account the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also the standards arrangements introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government 2013.
- 1.3 Relationship to the Councillor's Code of Conduct
  - 1.3.1 Councillors should apply the rules in the Code of Conduct first, which must always be complied with, including the rules on personal and prejudicial interests, Disclosable Pecuniary Interests and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
  - 1.3.2 Councillors should then apply the rules in this Planning Code of Practice, which seek to explain and supplement the Code of Conduct and the law on decision-making for the purposes of planning control. If you do not abide by this Planning Code of Practice, you may:
    - 1.3.2.1 Risk the council being challenged in the law courts; and
    - 1.3.2.2 Put yourself at risk of a complaint being made to the Monitoring Officer/Standards Committee for breach of the Code of Conduct for Councillors, or a complaint being made to the police to consider criminal proceedings in relation to failure to disclose a Disclosable Pecuniary Interest.

## **2. The Rôle of Parish Councillors**

- 2.1 In submitting its representations to the Borough Council on planning matters, Councillors shall:
  - 2.1.1 act fairly, openly and impartially;
  - 2.1.2 avoid inappropriate contact with interested parties;
  - 2.1.3 approach each application with an open mind;
  - 2.1.4 carefully weigh up all the material planning considerations;
  - 2.1.5 determine each application on its own merits in accordance with the provisions of the Development Plan and other material planning considerations;
  - 2.1.6 demonstrate sound judgement and ensure that valid, evidenced and justifiable reasons for decisions are clearly stated;
  - 2.1.7 vote as they consider appropriate and not along party lines.
- 2.2 Party political considerations shall play no part in their deliberations. Councillors shall at all times be respectful to the Chairman of the Committee and to each other and to Officers and members of the public including Applicants, Agents, Objectors and Members of other Councils.
- 2.3 Councillors shall not attempt to place any pressure on Officers of the Borough Council in order to influence the terms of a report and/or secure a particular recommendation on any planning matter.
- 2.4 Councillors shall ensure that all correspondence (including emails) with Officers, Applicants and Objectors are written using language which is professional and respectful. Members are reminded that all correspondence is potentially disclosable to the public pursuant to a freedom of information request.
- 2.5 Councillors shall not use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else.

## **3. Lobbying**

- 3.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward or Town/Parish member or to

a member of the planning committee. As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves". Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

- 3.2 It remains good practice that, when being lobbied, councillors (members of the Parish Council's Planning Working Group in particular) should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the relevant evidence and arguments.
- 3.3 Planning applications will be processed and determined in a transparently open and fair manner, in which Dacorum Council Members taking the decision will take account of all the evidence presented before arriving at a decision. Dacorum Council Members need to be mindful that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality.
- 3.4 To avoid compromising their position before receiving all the relevant information and hearing all the relevant evidence and arguments, Parish Councillors shall:
  - 3.4.1 not determine in advance of the consideration of the application by the Council whether they support or oppose a proposal unless they accept that this will mean that they may not take part in the decision (see paragraph 8 below);
  - 3.4.2 restrict themselves to giving procedural advice, such as advising lobbyists to write to the relevant case officer and/or avail themselves of the public participation process;
  - 3.4.3 explain they will only be in a position to make a final recommendation after having received all the relevant information and having heard all the relevant evidence and arguments at the Parish meeting itself;
  - 3.4.4 advise the Monitoring Officer promptly of the existence of any lobbying activities or approaches which are felt by a Councillor to be undue or excessive
  - 3.4.5 explain to those lobbying or attempting to lobby that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore their ability to participate in the Parish Council's

decision making, to make any sort of promise to vote one way or another or confirm a clear point of view.

- 3.4.6 not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.

### 3.5 Lobbying by Councillors:

- 3.5.1 Councillors shall not become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is their intention to openly campaign on the matter and will therefore step away from the Parish Council when it comes to make its recommendation.
- 3.5.2 Councillors may join general interest groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- 3.5.3 Councillors shall not lobby fellow councillors regarding their 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.
- 3.5.4 Councillors shall not decide or discuss how to vote on any application at any political group meeting, or lobby any other Councillor to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## 4. Committee Meetings

When approaching a decision Councillors shall be mindful that the Principle of Integrity is defined in terms that:

*“Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for*

*themselves, their family, or their friends. They must declare and resolve any interests and relationships".*

#### 4.1 Declaration of Interests

4.1.1 The responsibility for declaring an interest lies with the individual Councillor.

4.1.2 Members of the Parish Council shall declare disclosable pecuniary interests and personal and prejudicial interests in planning matters in accordance with the Code of Conduct.

4.1.3 Where a personal interest arises because a Councillor is a member of, or is in a position of control or management in, a body to which s/he was appointed or nominated by the Council or which exercises functions of a public nature, s/he need only declare the personal interest if and when s/he addresses the Committee on that item (unless s/he also has a prejudicial interest).

4.1.4 A Councillor with a disclosable pecuniary interest or a prejudicial interest shall declare it and move to the public seating area. and shall then follow the rules for such participation.

4.1.5 A Councillor shall not seek improperly to influence a decision in which s/he has a disclosable pecuniary interest or a prejudicial interest.

#### 4.2 Predisposition, Predetermination and Bias.

4.2.1 A Councillor is entitled to be predisposed about a particular matter. Predisposition is where a Councillor holds what may be termed a preliminary, or provisional, view and may have expressed such view publicly and, indeed, been elected upon the strength of it. Such comments have an added measure of protection under the Localism Act 2011. The critical point is that the Councillor must have an open mind in relation to all the relevant information, evidence and arguments when participating in the planning process and be prepared to reconsider their position in the light of all the relevant information, evidence and arguments.

- 4.2.2 If a Councillor is not prepared to be open-minded and to consider all the relevant information, evidence and arguments relating to a particular matter, or in any way gives the *appearance* of having decided in advance what stance to take at the meeting, that Councillor may be considered to have predetermined the matter or to be biased in relation to it.
- 4.2.3 If a Councillor has compromised his or her position by expressing views which indicate that he or she has already made up his or her mind on an issue before receiving all the relevant information and hearing all the relevant evidence and arguments, that Councillor shall make a declaration to that effect and take no part in the discussion, voting or decision.
- 4.3 Any Councillor in any doubt about the declaration of interests or predetermination should seek the advice of their Parish Clerk or the Borough Council's Monitoring Officer.
- 4.4 The Parish Council shall:
  - 4.4.1 come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If they feel there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse.
  - 4.4.2 not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including any public observations or presentations on the matter.
  - 4.4.3 not allow members of the public to communicate with them during the Council's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
  - 4.4.4 ensure that they comply with the Council's procedures in respect of public speaking.

## **5. Parish Councillors who serve on Borough Councils**

- 5.1 Some Parish Councillors will also be Members of Borough Councils. This situation can present problems where the Parish Council is consulted on planning applications, which are then determined by the Borough Council. This is often the stage when Councillors come under pressure to indicate



their support or objection in respect of a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils votes on an application at a Parish meeting prior to the relevant Borough Development Management Committee meeting. It would be quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information, evidence and arguments are made available at the Borough Committee meeting.

- 5.2 In order to avoid any potential conflict, it would be preferable for Borough Councillors not to participate in a Parish Council's Planning decisions. If they cannot avoid that, and if they wish to participate in the Borough Committee's deliberations, they shall not vote or say anything which would create the impression that they have already made up their minds prior to the relevant Borough Committee meeting. In this way they will avoid being part of the formal process of submitting representations on planning applications to the Borough Council and so demonstrate their impartiality. To avoid any challenge, those Members who have expressed a definite view on an application and/or have voted shall act as indicated under paragraph 4.2 above.

## **6. Site Visits**

- 6.1 Site visits can be helpful in identifying features of a proposal which may be difficult to convey in a written report and are acceptable as long as the guidance set out below is followed:
- 6.2 All Councillors who attend a site visit do so on the understanding that such visits:
  - 6.2.1 are fact finding exercises;
  - 6.2.2 are not part of the formal consideration of an application
  - 6.2.3 should be from a public vantage point in the first instance if this enables a sufficient view of the site, and only if the consent of the landowner is received should the Councillor enter onto the development site.
  - 6.2.4 No discussion of the merits of an application shall take place on site and no lobbying/objection shall be permitted;
  - 6.2.5 No opinions or views should be expressed as to the merits or demerits of the application.

- 6.3 Councillors should ensure that they report back to the Council any information gained from the site visit that they feel would benefit the Council.

## **7. Training**

- 7.1 Members of Parish Council shall undergo induction training and attend refresher training at regular intervals thereafter. Failure by a Councillor to attend formal induction training will disqualify that Councillor from being a member of the Working group. Failure to attend formal refresher training may result in a recommendation to the Council for the removal of a Councillor from Planning decisions. The Parish Clerk in consultation with the Chairman of the Parish Council, shall formally review Councillors training needs and monitor whether all training requirements have been met on an annual basis.