

# **NABURN PARISH COUNCIL**

## **Policy for dealing with planning applications**

**Adopted September, 29<sup>th</sup> 2008**

**Version 1.1 dated September, 29<sup>th</sup> 2016**

**Reviewed & Revised June 2020**

**To be reviewed on an annual basis before September 30<sup>th</sup> each year**

## **Naburn Parish Council**

### **Policy for dealing with Planning Application Consultations by City of York Council**

The Parish Council is regularly consulted by City of York Council on planning applications within the parish, as per the attached form at Appendix 1. A Parish Council's responsibilities in respect of planning are:

1. To make recommendations to the planning authority, within the Local Plan/Local Development Framework,
2. To provide relevant local knowledge and residents views, which have been expressed to the Parish Council, to the Local Planning Authority.

This document sets out Naburn Parish Council's policy on such matters.

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## 1. Interests

Based on the Local Government Association “Probity in Planning” document, April 2013 (updated since the Localism Act 2011).

There are two main types of interest:

- a. **Disclosure Pecuniary**
- b. **Personal**

For a more detailed definition of these two types of interest, refer to the current Code of Conduct.

Interest, if known, should be declared at the start of the meeting. If during the meeting a Councillor realises they have an interest in an item, they are required to declare it immediately. Interests only need to be declared if there is a decision to be made. If an item is for information only, there is no need to declare an interest.

It is the individual Councillor’s decision as to whether they have an interest in a matter, and that can be subjective.

### **Disclosable Pecuniary Interests**

A “disclosable pecuniary interest” is defined as a pecuniary (relating to or consisting of money) interest of a description which is specified in regulations made by the Secretary of State and which is either an interest of the member or an interest of the member’s spouse or partner.

Where a member has a Disclosable Pecuniary Interest, it is a **criminal offence** to fail to register that interest, to fail to disclose it at a meeting unless it is already registered or to participate on a relevant item of business, unless the member has a dispensation from the authority, or to take any action on the matter as a member of the Executive, other than to refer the matter to another executive member for determination.

If a member has a disclosable pecuniary interest in something being discussed at a meeting, they must disclose the interest if not already registered, they cannot participate in the discussion at the meeting, they cannot vote and they must withdraw from the room.

There are seven specific categories of Disclosable Pecuniary Interest, and they are listed in the City of York Council Code of Conduct, but of note are the following:-

- the “Employment” category applies only to employment or a business carried on for profit or gain, so excluding unpaid work for public, voluntary and charitable bodies (unless Special Responsibility Allowances constitute profit or gain).
- the “Contracts” category only applies to contracts between the authority and either the member or a body in which he/she has a beneficial interest; however, the definition of

“beneficial interest” includes directors, but omits employment on terms where the member would get a direct benefit such as a performance bonus from the existence of the contract.

## **Personal Interests**

You have a personal interest in a matter if that matter affects the well-being or financial position of you, members of your family, or people with whom you have a close association, more than it would affect the majority of people in the Parish affected by the decision.

A member of your family includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

If declaring a personal interest in an item the Councillor may remain and participate.

You must then ask yourself whether a member of the public – if he or she knew all the relevant facts – would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.

The Councillor must then decide whether that personal interest is likely to be seen as prejudicing their impartiality or ability to meet the principle of public life. If they decide “yes”, then they should not participate in the discussion or vote. If they decide “no”, then they can participate in the discussion and vote.

Example 1; Where the spouse of a Councillor works in a shop which has submitted an application, it would be deemed that the spouse, being an employee would be affected and that could skew the judgement of the Councillor.

Example 2; You would have a personal interest in a planning application proposal if a member of your family lives next to the proposed site. This is because your family member would be likely to be affected by the application to a greater extent than the majority of the inhabitants of the Parish and this gives you a personal interest in the issue. The existence of the close family tie means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. It does not matter whether it actually would or not.

In addition to any declaring personal or disclosable pecuniary interests, members of a planning committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application.

A distinction is drawn by the courts between (1) a planning councillor having clearly expressed an intention to vote in a particular way before a meeting (pre-determination), and (2) a predisposition to an initial view, but where the councillor is clear they are willing to listen to all the material considerations presented at the committee before deciding on how to exercise their vote on behalf of the community. In the latter case there is no predetermination. In reality, members will often form an initial view (a predisposition) about an application early on in its passage through the system.

If a planning committee councillor has been lobbied by friends or others and wishes to pre-determine their position to promote or oppose a planning application, they will need to consider whether this has become a personal interest or not. Whether or not it is a personal interest, they need to consider if their view is likely to be regarded as pre-determined and against the fair determination of the planning application. If they have pre-determined their position, they should avoid being part of the decision-making body for that application. Lobbying, whilst allowable, 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. When being lobbied, councillors 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 evidence and arguments. In such situations, they should restrict themselves to giving procedural advice. If they 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 committee.

## **2. Pre-meeting actions**

On receipt of a planning application the Clerk shall record the details in a register, and shall pass the documents to a minimum of 2 Parish Councillor who live closest to the application site. If the nearest Parish Councillor would be deemed to have an interest (see above) the application shall be passed to the next nearest.

The Parish Councillors shall examine the plans and make a site visit, explaining to the applicant that this is part of the procedure operated by the Parish Council prior to making a formal response to the Local Planning Authority.

The Parish Councillors shall check the veracity of the information supplied, and shall also visit adjoining neighbours, to ascertain their views, in order to be able to submit a balanced report to the Parish Council meeting.

Following the visit the Parish Councillors shall complete the site visit sheet (see below) recording their impressions, and shall make a draft recommendation in light of the details of the application and the comments of neighbours.

The application and recommendation sheet shall be returned to the Clerk, and brought to the next Parish Council meeting, for consideration.

**NABURN PARISH COUNCIL**  
**PLANNING APPLICATION CONSULTATION**

Planning Ref:

Date:

Applicant::

Planning Application in respect of:

The above application has been received and is enclosed for your attention. Please remember that it is your responsibility to carry out a site inspection and to have the plans available for the Parish Council meeting to be held on..... If you are unable to attend the meeting please ensure that the plans are handed to another Councillor who will be attending the meeting.

**Names of Councillors completing Consultation:**

**SITE INSPECTION REPORT**

**Date:**

**LIKELY EFFECT ON IMMEDIATE NEIGHBOUR(S)/SITING:**

**LIKELY EFFECT ON NEIGHBOURHOOD AS A WHOLE:**

**HIGHWAY IMPLICATIONS:**

**OTHER COMMENTs**

**INSPECTING COUNCILLOR'S SIGNATURE:**

### **3. Meetings**

Planning applications will wherever possible be considered in the course of regular Council meetings. Regular Council meetings are scheduled for the year ahead. On those occasions where the time between receipt of an application and its return (normally three weeks) prevents this, an extraordinary meeting of the Parish Council will be called to consider the application.

Notice, quorum, voting and minutes requirements for both general and extraordinary meetings of the Council are the same, and are set down in law by the Local Government Act 1972.

Notice has to be three clear days written notice to members of the matters to be discussed and notice of the meeting must be displayed in public. Three clear days is defined in law as excluding the day of issue of the notice, the day of the meeting and a Sunday.

A minimum of one third of the members must be present at the meeting for it to be quorate: in the case of Naburn Parish Council this is a minimum of 4 members.

A formal vote can be required and a record of votes cast must be kept if requested by any member.

Minutes of the meeting must be kept.

#### 4. **Response to CYC**

The standard CYC consultation letter is shown in Appendix 1.

The four responses permitted on a CYC consultation document are:

Please CIRCLE A, B, C or D as appropriate. Write your comments on planning grounds overleaf and number each comment.

- A We support the application
- B We have no objections.
- C We do not object but wish to make comments or seek safeguards as set out overleaf
- D We object on the planning grounds set out overleaf

Where comments are included by the Parish Council on any type C consultation response, such comments must be factual (after proper research if necessary), accurate and balanced.

If there is a split of views regarding an application the Parish Council's response shall be determined by simple majority voting on the options above. Should a Councillor so wish they could send an individual representation to the Case Officer, as a resident.

If it is not possible to submit a response within the time limit set by CYC, this should not be a cause for not adhering to these guidelines or to the Local Government Act: comments can still be sent to CYC at a later date because the Local Planning Authority is required to consider all material considerations.

Responses are to take account of 'material planning considerations', but must not refer to those items not considered such - guidance on these are attached.

**EXAMPLE OF CITY OF YORK COUNCIL PLANNING CONSULTATION LETTER**

Ext:  
Email:  
Our Ref:  
Your Ref:  
Date: 13 February 2008

**PARISH COUNCIL/PLANNING PANEL CONSULTATION - PLEASE RETURN AS SOON AS POSSIBLE, BUT NOT LATER THAN: 5 March 2008**

Application at:  
Grid Reference: &  
For:  
By:  
Type of Application:

**Please note changes to this response letter**

Please CIRCLE A, B, C or D as appropriate. Write your comments on planning grounds overleaf and number each comment.

- A We support the application
- B We have no objections.
- C We do not object but wish to make comments or seek safeguards as set out overleaf.
- D We object on the planning grounds set out overleaf.

Signed ..... Date .....  
Clerk

## **5. What is a material consideration?**

### **The Key Purpose of Planning**

This is to control development in the public interest. City of York Council, as your Local Planning Authority, must take decisions on behalf of the whole community.

### **Decision Making**

The Local Planning Authority must make decisions openly, fairly, with sound judgement and for justifiable planning reasons. It can consider applications on planning grounds only. It has to consider the planning application submitted and cannot redesign it. The Village design statement, adopted by the planning authority, becomes a supplementary planning document (SPD). The planning authority must take on SPD into account as a material consideration. Examples of these are the number, size and layout of a development, siting, design, external appearance, access, infrastructure, landscaping and impact on the neighbourhood.

Views of local residents are always considered, but local opposition or support on its own is not a reason for refusing or granting planning permission. Opposition or support must be backed up by valid planning reasons.

The Government has issued legislation, and guidance originally known as Planning Policy Guidance Notes (PPG), which are now being revised and republished as Planning Policy Statements (PPS). These are significant material considerations and the Local Planning Authority must take them into account when reaching planning decisions.

In addition to the PPG's and PPS's, Government policies and advice are also provided in circulars, technical documents and direction. The Local Planning Authority must also consider these.

Listed overleaf are examples of issues that the Local Planning Authority can and cannot consider. This list does not show everything; it is meant as a guide to help the Parish Council when preparing its statement. If you are unsure as to whether or not your objection might be a material planning consideration, call the Case Officer who is dealing with the matter (you will usually find details on your notification letter) or the duty Development Control Officer.

### **Issues the Local Planning Authority can consider**

- Size, scale and massing of the development
- Overlooking and loss of privacy (limited)
- Adequate parking and servicing (limited)
- Overdomination (size, scale & massing which may cause overshadowing)
- Loss of trees
- Loss of ecological habitats
- Design and appearance
- Layout and density of buildings
- Effect on Listed Building(s) and Conservation Areas
- Access and highways safety
- Traffic generation
- Noise and disturbance from the scheme
- Disturbance from smells
- Public visual amenity (not loss of private individual's view)
- Flood risk .
- Approved development not yet constructed
- All representations received

### **Issues the Local Planning Authority cannot consider**

- Loss of value to private individual property
- Loss of view
- Boundary disputes including encroachment of foundations or gutters
- Private covenants or agreements
- The applicant's personal conduct or history
- The applicant's motives
- Potential profit for the applicant or from the application
- Private rights to light
- Private rights of way
- Damage to property
- Disruption during any construction phase
- Loss of trade and competitors
- Age, health, status, background and work patterns of objector
- Time taken to do the work
- Capacity of private drains
- Building and structural techniques
- Alcohol or gaming licences
- Moral objections
- Other proposed development

These lists are not exhaustive as case law can amend what can and cannot be considered.

## **6. Calling note re Planning Applications for Parish Councillors**

### **NABURN PARISH COUNCIL**

Date:

Time:

Hello,

Representatives of Naburn Parish Council called to see you today about a request for planning permission.

As you may know, the City of York Council is responsible for granting planning permissions and you may have already had correspondence from them.

Your local Parish Council is always asked for a view. Part of the process requires one or two of us to do our best to discuss the application with the applicant to find out more about what is involved and, on a reasonable endeavours basis, try to talk with neighbours who might be affected to see if they have any observations.

The information gathered is then discussed at a full meeting of the council or at a specially convened meeting if the deadlines are tight. Both meetings are open to the public. The outcome is then reported to the City Council.

The dates of all our meetings are advertised on the Parish Council Website ([www.naburnparishcouncil.org.uk](http://www.naburnparishcouncil.org.uk)), and on the village notice boards.

If you wish to have your views reflected it would be appreciated if you are able to call one of us within the next 48 hours.

Our contact details are as follows:

Name: Phone:

Name: Phone: