

**REPORT OF SOLICITOR**

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**SUBJECT: MEMBERS' DUTIES IN DETERMINING APPLICATIONS**

1. The purpose of this report is to briefly summarise the role of this Committee within the planning system.
2. The planning system is a statutory code which regulates the rights of landowners and others interested in land in order to ensure that the development and use of land reflects the public interest. Planning decisions must be made in accordance with its provisions.
3. The public interest is expressed through the development plan. Currently, the plan for the Pembrokeshire Coast National Park is the Local Development Plan adopted by this Authority in September 2010. The law requires planning decisions to be taken in accordance with the development plan unless material considerations indicate otherwise.
4. Material considerations can be:
  - (a) National planning policy, which is set out in Planning Policy Wales and the accompanying Technical Advice Notes.
  - (b) Considerations relating to the planning history of a site, highways, nature conservation, noise, loss of privacy, the layout, design and appearance of a proposed development, and any effects on a listed building or conservation area.
  - (c) The need to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park, and to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.
5. Non-material considerations must be disregarded when taking planning decisions. For example, issues such as loss of view, or negative effect on the value of properties, are not material considerations. Personal circumstances are only very rarely material to planning decisions.
6. From 1<sup>st</sup> April 2016 public bodies have a statutory duty to carry out Sustainable Development under the new Well-being of Future Generations (Wales) Act 2015 by meeting well-being objectives and achieving the well-being goals listed in the act. Under part 2 of the Planning (Wales) Act 2015 local planning authorities must, as part of carrying out Sustainable Development, exercise their functions in relation to planning applications for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales. Members must demonstrate that they have applied the sustainable development principle when reaching planning decisions, in that they seek to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

7. The Human Rights Act 1998 incorporated into domestic law the rights set out in the European Convention on Human Rights. Provided that Members apply the statutory code lawfully and in a fair and impartial manner, they will have complied with their statutory duties under the Planning Acts and will thereby also have acted in accordance with the Human Rights Act 1998.
8. The Authority has also adopted a Members' Planning Code of Good Practice, which explains and supplements the statutory Members' Code of Conduct in the context of the planning system. It is important that Members ensure that they apply the guidance contained in the Planning Code of Good Practice whilst carrying out their statutory duties.