

25. Planning code of practice

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25.1 What does this code apply to?

This code applies to all planning decisions, whether they are taken by officers, area committees, strategic development control committee or full council. There is further guidance in a separate code of practice for dealing with planning applications at area committees, strategic development control committee and full council.

25.2 Training for councillors

Councillors should attend training at least once a year in planning and will be told about any changes to the law or the council's procedures.

25.3 Councillors' interests in planning applications

(a) Registering interests

The councillors' code of conduct requires councillors to register interests. See 23.19.

(b) Declaring interests

The councillors' code of conduct says what councillors must do if they have an interest in an item. See 23.15 to 23.18.

(c) Avoiding perception of bias

Councillors must listen to the advice of the monitoring officer if they are felt to have a conflict of roles or to have given the impression of having made up their minds in advance.

25.4 Gifts and hospitality

Councillors and officers should avoid receiving gifts or hospitality from anyone involved with a planning application. If gifts or hospitality are unavoidable, they should be kept to the minimum.

Under the councillors' code of conduct, gifts or hospitality worth more than £25 that are linked to being a councillor must be recorded in the register of interests within 28 days.

Officers should declare offers of gifts or hospitality in the council's hospitality book as soon as possible, whether they accept them or not. The book will be regularly reviewed by the monitoring officer.

25.5 Need for councillors to make up their minds at committee

When a planning application comes to committee, councillors must weigh up all the relevant facts and make their decision at the meeting. They must not have already decided how to vote.

This means that councillors need to be careful about anything they say before the committee meeting. Although they can start to form a view, they should never say anything that could give the impression they have already made up their minds.

If a councillor is involved in deciding the same application at both an area committee and strategic development control committee, they must weigh up all the relevant facts again at strategic development control committee and make a fresh decision. The same goes when applications are called in to full council.

25.6 When councillors go public

If a councillor has publicly supported a particular outcome, it will be very difficult for them to appear to make up their mind at committee and they should not vote.

25.7 Councillors who represent the council on another body

Under the councillors' code of conduct, a councillor who represents the council on another body can normally speak and vote on items that affect that body. But with planning, they can do so only if they have not formed a fixed view

before the meeting. (The same goes for councillors who serve on another council or who are involved in managing or directing another public body.)

25.8 Members of the board

If a member of the board is involved in deciding a planning application the council has an important financial interest in as the landowner, it could lead to claims of bias.

25.9 Lobbying

(a) Lobbying by councillors

Councillors should not lobby each other. Nor should they put pressure on officers to make a particular recommendation.

(b) Lobbying of councillors

When they are lobbied, councillors should be careful not to say anything that could give the impression they have already made up their mind. They should stick to advising on procedures and suggesting that the person writes to the planning business manager with their views.

25.10 Whipping

Political groups must not whip planning decisions. Councillors must use their individual judgement when deciding how to vote.

25.11 Planning applications by councillors and officers

(a) Officers not to act as agents

Officers must not act as agents for planning applications to the council.

(b) Council's handling of applications

If a councillor or an officer puts in a planning application to the council, they must not be involved in deciding it or try to influence it improperly. The same goes for applications where a councillor is the agent.

If a councillor is the applicant or the agent, they will have a prejudicial interest if they are present at any meeting where it is discussed. They will have the same rights as other members of the public to address the meeting but they must then leave until after the vote.

The planning business manager will tell the monitoring officer about any applications by councillors or officers and any applications where a councillor is the agent. These applications will always be decided by an area committee or the strategic development control committee, not by the planning business manager. The committee report should be able to say that the monitoring officer confirms the application has not had any special treatment.

25.12 Planning applications by the council

The council will follow the government guidance for councils dealing with their own planning applications. These applications will always be decided by an area committee or the strategic development control committee, not by the planning business manager. Applications by the council will not get special treatment: the council will decide them on planning grounds and will not take into account how it could gain from giving permission.

25.13 Discussions before an application is decided

The following applies to discussions before an application is put in or before it is decided. These include discussions over the phone, as well as face to face discussions.

- (a) It should be made clear at the start that the discussion will not bind the council.
- (b) Anyone taking part in the discussion should make it clear whether they are likely to be the decision taker.
- (c) Advice should be unbiased and consistent. It should be based on the local development framework and relevant facts.
- (d) A note should be made of the meeting, which councillors should be entitled to see.
- (e) A follow-up letter should usually be sent, confirming what has been discussed.
- (f) At least one officer should attend any face to face discussions that might be contentious.
- (g) If councillors have a face to face discussion, they should take a senior planning officer with them. Face to face discussions involving councillors or officers should be recorded on the applicant's file.
- (h) Councillors should not approach applicants to try to achieve planning gain or get a planning application changed.

25.14 Public meetings

At public meetings councillors should be careful to be neutral and to listen to all points of view. They should never say anything that could be taken to mean they have already made up their mind.

25.15 Site visits

Site visits can cause delay and extra work. They should only happen when the committee decides that they will have important benefits, for example when:

- the planning application is particularly contentious or
- it is difficult to form a picture of the development from the photographs or plans.

Site visits are for councillors to get information. They are not an opportunity to lobby.

During site visits, councillors and officers should go round in a group and should not comment on the application. The chair should prevent any lobbying.

25.16 Officers' reports to committee

Reports should cover all the relevant points, including:

- the thrust of any objections
- what the local development framework says
- the history of the site.

Reports should have a recommendation and a technical assessment that clearly justifies it.

If the recommendation goes against the local development framework, clear reasons must be given.

Oral reports should be rare and carefully minuted.

25.17 Planning conditions added at the meeting

When councillors suggest planning conditions that were not in the report, an officer should draft them. These can be brought back for approval if the committee wishes.

25.18 Decisions that go against the local development framework or officers' recommendations

If the officers recommend going against the local development framework, they should give full reasons in the report.

If a committee goes against the officers' recommendation, it must be for planning reasons and these must be clear and convincing. A detailed note of the reasons should be put on the application file. The personal circumstances of the applicant are rarely enough.

If a committee is thinking of voting against the officers' recommendation, officers should be asked to explain any effect it might have.

25.19 Complaints and record keeping

The council has a complaints procedure, which is on its website.

Complaints that a councillor has broken the councillors' code of conduct can be made to the Standards Board for England.

To make complaints easy to investigate, records need to be complete and accurate. Every planning file should contain an account of events from beginning to end. It is important to record reasons for decisions, especially when they are taken by officers and there is no committee report.

The planning business manager will monitor the quality of the council's planning records.