

24 PLANNING CODE OF PRACTICE

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24.1 What does this code apply to?

This code applies to all planning decisions, whether they are taken by officers, area planning committees or the planning review committee. ~~Further guidance for dealing with planning applications at committee meetings is attached to this code but is not a part of the constitution. It also applies to the preparation of the Local Plan and other planning policy documents.~~

24.2 Training for Councillors

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

24.3 Preparation of Planning Policy documents – Public Meetings

At public meetings Councillors should be careful to be neutral and to listen to all points of view. They should take care to express themselves with respect to all present including officers. They should never say anything that could be taken to mean they have already made up their mind.

24.3.4 Councillors' interests in planning applications

a. Registering and declaring interests

The members' code of conduct requires Councillors to register interests. See 22.4.

b. Declaring interests

~~Section 22.4(d) states The members' code of conduct says what Councillors must do if they have an interest in an item. See 23.15 to 23.18.~~

All matter of interests must be viewed within the context of the Members' Code of Conduct as a whole and regard given to the perception of the public. If Members' have concerns about a potential interest, they should seek advice from the Monitoring Officer.

c. Avoiding perception of bias

Councillors must listen to the advice of the Monitoring Officer if they may be perceived as having made up their minds in advance or having closed their minds to opposing ~~view points~~viewpoints.

If a member is a Board member or represents the Council on an outside body and the Council or the outside body is the applicant then particular care should be taken by the member to avoid the perception of bias.

24.45 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 members' 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 ~~relevant service area's~~Council's hospitality register as soon as possible, whether they accept them or not. Officer hospitality registers will be reviewed annually by the Monitoring Officer.

24.56 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. Councillors should not sign letters or petitions that support or oppose an application.

~~If a Councillor is involved in deciding the same application at both an area planning committee and the planning review committee, they must weigh up all the relevant facts again at the planning review committee and make a fresh decision.~~

24.6-7 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. This is not the same as the need to declare a a personal or a personal prejudicial disclosable pecuniary interest. That is a separate requirement of the members' code of conduct. See 22.4 of the constitution.

24.7-8 Lobbying

a. Lobbying by Councillors

Councillors should not lobby each other on planning applications. Nor should they put pressure on officers to make a particular recommendation or do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

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 Head of City Development with their views in order that the comments may be reflected in the officer's report.

If councillors do express an opinion to objectors or supporters, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.

~~c. 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~~

~~Head of City Development with their views in order that the comments may be reflected in the officer's report.~~

24.8-9 Whipping

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

24.9-10 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 or any relation of theirs puts in a planning application to the Council, they must declare their relationship on the application form and 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 are likely to have a disclosable pecuniary interest and should take no part in the determination of the application.

The Head of City Development 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 planning committee, or if called in, the planning review committee, not by the Head of City Development. The committee report should be able to say that the Monitoring Officer confirms the application has not had any special treatment.

24.10-11 Planning applications by the Council

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 or refusing permission. Council applications will always be decided by an area planning committee or if called in, the planning review committee, not by the Head of City Development.

The only exception to this is applications for prior approval under identified permitted development rights (see 5.3(b)) ~~where~~ which have a 42 day deadline for the local planning authority to oppose. If ~~insertion~~ incorporating a prior approval application ~~into the~~ the committee ~~structure~~ structure takes longer than 42 days for the application to be determined, then this will ~~may~~ result in

the development being allowed to proceed by default regardless of what the committee decides. In those circumstances the Head of City Development will determine the application

~~The Council will follow the government guidance for councils dealing with their own planning applications. These applications will always be decided by an area planning committee or, if called in, the planning review committee, not by the Head of City Development. 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 or refusing permission.~~

24.11-12 Discussions before an application is decided

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

- 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 any meeting, which ~~Councillors should be entitled to see~~will be included on the application file.
- e. If the applicant so requests a follow-up letter should be sent, confirming what has been discussed.
- f. At least two officers should attend any meetings that are likely to be contentious.
- g. If Councillors have a meeting, they should take a planning officer with them. Meetings 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.
- i. Councillors should never say anything that would give the impression that they have already made up their minds in to relation the matter.

24.12-13 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.

24.14 Members Briefings

~~For complex Council applications it might be appropriate to hold a members' briefing before the application is determined by committee. Members' briefings will be open to all councillors and the public and will be used by the applicant (ie Council as landowner) to brief the members and contextualise the application (provide information. Briefings will not be led by planning officers but will be run by the Regeneration team~~

~~The purpose and limitations of the briefing are to be made clear at the outset and a full note of the meeting will be taken and placed on the application file and provided as part of the report to the decision making committee. Any discussion at a members' briefing does not bind the council (as local planning authority) to make a particular decision and the views expressed by councillors are to be considered personal and provisional as not all information may be available has no more standing than any other pre-decision discussion. Such briefings are not part of and do not substitute for any part of the decision making exercise to be undertaken by the relevant committee.~~

24.1315 — Site visits

~~A site visit by a planning committee is only likely to be necessary if:~~

- ~~• the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers~~

~~OR~~

~~] I don't know what this means] • [This is no justification for a site visit. The only real justification is those truly exceptional circumstances where issues relevant to the determination of the application can only be properly understood by seeing the site.]~~

~~When a site visit is requested from by a councillor or member of the public the 'substantial benefit' of exceptional justification for visiting the site should be judged on the criteria above.~~

~~The reasons why the site visit is requested will be recorded and kept on the file.~~

~~A site visit by an area planning committee or the planning review committee will only occur if it is necessary to inspect a site to gain a factual understanding of a site's location, physical characteristics and relationship to~~

~~neighbouring properties or land use, before making a formal decision on a planning application. No decisions may be made on site.~~

Site visits will only be attended by members of the relevant committee and supporting officers. ~~Third parties~~Other people such as applicants, owners or members of the public will not be invited to attend site visits. Applicants or owners will only be present if they are required to give access to a site. Applicants or owners present should not be directly engaged by Councillors and all Councillor —questions should be addressed to the accompanying officer.

Councillors should not seek or accept representations, either as a committee or as individual members, during the visit. Councillors should not comment on the application and will not take any decisions during a site visit but may ask questions of the officer or seek clarification, particularly about the layout of the site or the development and its surroundings, but not in relation to the merits of the application. The members' code of conduct applies to site visits.

Beyond attendance, no formal notes will be recorded of a site visit.

Members of an area planning committee ~~or the planning committee~~ or the planning review committee who do not attend a site visit are not precluded from taking part in the determination of the planning application to which it relates. A site visit is not a meeting of the committee and no decision may be made upon the application at a site visit.

24.1416 Officers' Reports to Committee

Reports should cover all the relevant points, including:

a. material ~~objections~~ considerations

b. what ~~relevant parts of the local development framework says~~ the development plan

c. the relevant planning history of the site.

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

If the recommendation ~~goes against the local development framework~~is contrary to the development plan clear reasons must be given identifying material considerations justifying that development plan departure.

Oral reports should be rare and carefully minuted.

24.17 Committee members speaking in the public speaking slot

Committee members can choose to speak during the public speaking slot but they must notify the chair of their intentions before the meeting begins. They cannot participate in determining the application but can appoint a substitute for the item. Once a decision is made the matter has been concluded, the member can re-join the committee.

24.18 Members of the public passing messages to Members during the meeting

Messages should never be passed to individual committee members from the public once the meeting has started.

24.19 Determining an application

Committee members can only determine an application if they have been present throughout the whole presentation and debate. Members that arrive late or leave the room during the deliberation of an application can sit at the committee table but cannot participate in the debate or vote on the application.

–When an application is considered over two meetings, only members that attend both meetings can vote on the application.

24.1520 Planning conditions added at the meeting

When Councillors suggest planning conditions that were not in the report, their wording should be settled ~~should be and~~ drafted prior to the relevant decision being made. Conditions are an integral part of a grant of permission and should be imposed only where lawful and compliant with national policy; an officer should draft them. These should be delegated to officers but may, exceptionally, be brought back for approval if the committee wishes.

24.2116 Decisions ~~that go against the local development framework~~that depart from the development plan or officers' recommendations

If the officers recommend making a decision contrary to the development plan~~going against the local development framework~~, they should give full reasons in the report.

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

If a committee goes against the officers' recommendation, it must be for planning reasons and these must be clear and convincing. The personal circumstances of the applicant are rarely enough. The reasons must be established prior to the decision motion being voted on. ~~predicated by those~~

| ~~reasons being made.~~ A detailed minute of the reasons should be made and placed on the application file.

| **24.1722** **Complaints and record keeping**

The Council has a complaints procedure, which is on the website.

Complaints that a Councillor has broken the members' code of conduct can be made to the standards committee. A failure to adhere to this code may result in and may be cited as evidence of a breach of the members' code of conduct.

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 Head of City Development will monitor the quality of the Council's planning records.

| **24.1823** **Responsibility for this code**

The Head of City Development and the Monitoring Officer have overall responsibility for this code. They will review how the code is working.

**CODE OF PRACTICE FOR DEALING WITH PLANNING APPLICATIONS
AT AREA PLANNING COMMITTEES AND PLANNING REVIEW
COMMITTEE**

Planning controls the development and use of land in the public interest. Applications must be determined in accordance with the Council's adopted policies, unless material planning considerations indicate otherwise. The Committee must be conducted in an orderly, fair and impartial manner.

The following minimum standards of practice will be followed.

~~A full Planning Code of Practice is contained in the Council's Constitution.~~

1. All Members will have pre-read the officers' report. Members are also encouraged to view any supporting material and to visit the site if they feel that would be helpful

2. At the meeting the Chair will draw attention to this code of practice. The Chair will also explain who is entitled to vote.

3. The sequence for each application discussed at Committee shall be as follows:-

- a. the Planning Officer will introduce it with a short presentation;
- b. any objectors may speak for up to 5 minutes in total;
- c. any supporters may speak for up to 5 minutes in total;
- d. Speaking times may be extended by the Chair, provided that equal time is given to both sides. Any non-voting City Councillors and/or Parish and County Councillors who may wish to speak for or against the application will have to do so as part of the two 5-minute slots mentioned above;
- e. voting members of the Committee may raise questions (which shall be directed via the Chair to the lead officer presenting the application, who may pass them to other relevant Officer/s and/or other speaker/s); and
- f. voting members will debate and determine the application.

4. Public requests to speak

Members of the public wishing to speak must notify the Chair or the Democratic Services Officer before the beginning of the meeting, giving their name, the application/agenda item you wish to speak on and whether they are objecting to or supporting the application. Notifications can be made via email or telephone, to the Democratic Services Officer (whose details are on the front of the committee agenda) or given in person before the meeting starts.

5. Written Statements from the public

Members of the public and councillors can send the Democratic Services Officer written statements to circulate to committee members, the head planner and the caseplanning officer prior to the meeting. Statements are accepted and circulated up to 24 hours before the start of the meeting.

Material received from the public at the meeting will not be accepted or circulated, as Councillors are unable to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

6. Exhibiting Models and Displays at the Meeting

Applicants or members of the public can exhibit models or displays at the meeting as long as they notify the Democratic Services Officer of their intention at least 24 hours before the start of the meeting so that members can be notified.

7. Recording Meetings

~~4. Members of the public wishing to speak must send an e-mail to planningcommittee@oxford.gov.uk before 10.00 am on the day of the meeting giving details of your name, the application/agenda item you wish to speak on and whether you are objecting to or supporting the application (or complete a 'Planning Speakers' form obtainable at the meeting and hand it to the Democratic Services Officer or the Chair at the beginning of the meeting)~~

Members of the public are reminded that the recording of the meeting (audio or visual) is not permitted without the consent of the Committee, which should be sought via the Chair

8. Meeting Etiquette-

All representations should be heard in silence and without interruption. The Chair will not permit disruptive behaviour. Members of the public are reminded that if the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee. The Committee is a meeting held in public, not a public meeting,

69. Members should not:-

- a. rely on considerations which are not material planning considerations in law;
- b. question the personal integrity or professionalism of officers in public;
- c. proceed to a vote if minded to determine an application against officer's recommendation until the reasons for that decision have been formulated; and
- d. seek to re-design, or negotiate amendments to, an application. The Committee must determine applications as they stand and may impose appropriate conditions.

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