

Planning: Ethics, Code & the Committee

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What's going to be covered?

- Importance of ethical conduct
- Role of the planning committee
- Conflicts of interest
- Predetermination
- Lobbying
- Conduct at site meetings and in committee meetings
- Decision making in committee meetings

Why are ethics in planning important?

- The planning process exists to serve the public interest
- Need to have a consistently held view of the policies and actions that best serve the entire community
- Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants
- Qualities to strive for:
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership

Role of the planning committee

- Authorised to discharge the planning function of the council
- Quasi Judicial Body – similar to a court, hear all evidence before making a decision on any planning matter
- Apolitical – Therefore no party “whipping” allowed
- Decision made in public forum and often in front of the press

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- Must conduct business in accordance with the Code of Conduct
- Duty to whole community - not just an applicant or objector
- Decision-making body which operates by majority (with Chair of committee having a casting vote)
- Planning Committee must determine planning applications taking into account material planning considerations

Conflicts of interest

If you have one....steer clear of involvement with the application!

- Members of the council are under a duty to base their decision-making on a consideration of the public interest
- Members must avoid conflict between personal interest and the public interest, declare personal interest when it arises and resolve any conflict between the two interests, at once, and in favour of the public

The test

'A member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest'

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IN WHAT CIRCUMSTANCES MIGHT A CONFLICT OF INTEREST ARISE?

- a) an interest that is registered on the register of members interests e.g.
- *Employment, or business carried on by you.*
 - *Any person, other than your council, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a councillor.*
 - *Any land in which you have a beneficial interest and which is within your council's district*
- b) where you have a pecuniary interest, direct or indirect, in any matter coming before any meeting of the council
- c) where you have a significant private or personal non-pecuniary interest. In addition to a) above, an interest will also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents

Predetermination

If you sit on a planning committee:

- Councillors can play an active part in local discussions. However, while you can hold a preliminary view, you must not prejudge or be seen to prejudge any decision, or express an opinion on a particular local planning issue
- Predetermination – DON'T decide how you might vote / publicise your decision in advance of the meeting unless you are happy not to participate in the vote at the planning committee meeting
- *Predisposition is different to predetermination – Predisposition = Where you have a preliminary view on a particular issue but have an open mind as to the merits of the argument you hear before making a final decision*

Lobbying

It is a legitimate part of the planning application process for applicants, neighbours and other interested parties to approach members of the planning committee:

- Applicants / developers wishing to promote their schemes
- Objectors wanting your support to get a development rejected

REMEMBER!

If you want to be able to vote at the meeting.....

- Don't express an opinion as to whether the development will / won't get your support
- Explain to the person why you are unable to commit to help them
- If there is another councillor who is not on the committee refer the person to them
- Direct any representations to the relevant planning officer.

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Good practice:

- At the start of the committee meeting state that you have been lobbied but that you have not given any indication on how you might vote and that you have an open mind
- Keep a short note of any meetings / conversations
- Forward any letters / emails to the planning case officer

Site & Committee Meetings

Constitution:

- Scheme of delegation
- Arrangements for site meetings
- Public speaking
- Format of the meeting

Public face of the Council

Site visits

- may or may not be formally part of the planning committee meeting (but code of conduct will apply in either case)
- lobbying

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Committee Meeting

- Efficient & effective (don't short change but don't make the meeting laboured)....you have to get through the whole agenda in reasonable time
- Read the papers before the meeting
- Give the meeting your full attention
- Applications must be determined in accordance with plan policy unless material considerations outweigh
- The officers are your friends and vice versa – they are there to provide advice, guidance and direction

Decision making at Committee

What Are the Decision Options?

1. Go with officer recommendation (but you might want to add / remove / alter reasons for refusal or add / remove / alter conditions)
2. Overturning officer recommendation:
 - If you want to refuse it.....your formal 'proposal' must include the planning reasons why BEFORE it is voted on (officers should be given the opportunity to feed back on the reasons before the vote....this helps ensure that committee can be advised if the reasons 'stand up' and do not overly expose the council to an appeal cost claim)
 - If you want to approve it... your formal 'proposal' must include the planning reasons why you think the proposal is acceptable BEFORE it is voted on. If planning conditions need to be added...best not to do this 'on the hoof' ...can be delegated to officers

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3. Defer

- Be clear on what it is that you want to be looked into

Clarity is King

- Be sure you know what you are voting on...any doubt say so
- Once the resolution made – chairman / officer should say if application has been approved/ refused / deferred for benefit of audience

The practical reality

Things to remember

- **Politics** – philosophy yes, politics no: quasi judicial
- **Bias / conflict of interest**
- **Predetermination**
- **Lobbying**
- **Use your officers**
- **Clear / efficient / effective meetings**