

Code of Practice for Planning

The following 'Best Practice' principles should guide all Councillors in the execution of their duties and roles as representatives of the District Planning Authority and when sitting on any area committee. It has been revised to take account of the Local Government Association's revised guidance note entitled "Probity in Planning" published May 2009.

Part 1 – "The do's and the don'ts"

ALL Councillors:

1. should serve the whole of the District and uphold the adopted policies of the Council in the general public interest.
2. (i) should abide by the Council's Code of Conduct, this Code and the Council's Constitution (ii) should declare any personal and prejudicial interests as required by the Code of Conduct and (iii) should consider making public facts or circumstances which may not amount to a personal interest under the Code but disclosure of which will help prevent any unfavourable public perception issues arising and strengthen the open and transparent nature of the decision making process.
3. should promote open and transparent decision-making but also uphold 'confidentiality' where appropriate.
4. should act in a way which is not only fair and impartial but just as importantly is also *seen to be so*.
5. are entitled to express their view or opinion on an application prior to it being considered by them at committee. This is part of their role as acting as champions for the communities they serve. This is sometimes called "pre-disposition" and will not prevent them considering the application at committee providing they are seen to have kept an open mind and remain willing to listen to all sides before deciding how to vote.
6. should avoid giving the impression that they have made up their mind in relation to an application, how they intend to vote and have no intention of changing it whatever may be said at committee. This is sometimes called "pre-determination". It is unfair to both the applicant who is entitled to have their application considered objectively but it is also unfair for objectors where the District Councillor intends to support an application as their views should also be considered.
7. where they have pre-determined an application, (i) should declare this fact at the meeting convened to consider it and that despite this they would wish to make representations on behalf of their constituents. (ii) should move away from the area reserved for Councillors and make their representations at the appropriate time (iii) should not vote and (iv) should leave the room after making representations to avoid any suggestion of them exerting any influence on other members.
8. should not organise support from other District Council members for or against a planning application nor lobby other members.
9. should avoid putting pressure on Officers for a particular recommendation or otherwise attempt to interfere with their impartiality.
10. should provide full reasons (which will appear in the committee report) where they require an application that would otherwise be delegated to officers to be considered by committee.

11. must receive appropriate initial and on-going training by their attendance at or undertaking or completion of organised training events or facilities approved by the District Council in order to be properly informed and aware of the issues when making decisions on planning applications and the plan making process.
12. should endeavour to always inform the Case Officer of the receipt of relevant lobbying material (correspondence, photographs, plans, etc.) from applicants, in order that its validity and accuracy can be checked should the member intend to rely or be influenced by it and should pass to the Case Officer any letters of objection to ensure that they are taken into account
13. should wherever possible consult with an Officer prior to an arranged meeting with an applicant or prospective applicant. The Case Officer must be advised of any such meeting and the nature of the discussion so that a record can be kept on the file.
14. should make it clear in any pre-application discussions that they will not bind the council and that they are initial and preliminary discussion.
15. should at all times avoid the appearance of over familiarity with applicants and objectors and should comply with the Gifts & Hospitality Guidance for Members. In particular they should refuse any offer of gifts or hospitality likely to be considered by others to influence their decision.
16. must not take part in the consideration of any planning application where they are acting in the capacity of agent for the applicant to avoid any accusations of favouritism.
17. should not consider any material circulated by the applicant or objectors at the meeting itself unless the legal officer present confirms that it would be appropriate.
18. should not accept notes from or seek to pass notes to the applicant, objectors, officers or other members at the committee. It is important that meetings and discussions are seen to be open and transparent.

Part 2

Guidance for members who are also town and parish councillors, members of the Regulation Committee or Portfolio Holders with responsibility for planning, regeneration etc

- A. The Parish Council is an important consultee and district councillors can fully participate at parish level, speak and vote on an application being considered by it (where they are also members of the parish council). However, district councillors must keep, and be seen to keep, an open mind. It is absolutely imperative that they publicly reserve the right to fully consider the issue when all the information is presented at the district council when the relevant committee is considering the application as the local planning authority.
- B. On items that are referred from an Area Committee to Regulation Committee, district council members of the Regulation Committee can participate and vote both at the Area Committee and at Regulation. The council's decision-making process is not complete at the Area Committee stage as the matter is referred to the Regulation Committee with a recommendation and not a decision of the Area Committee. District Council members of the Regulation Committee should record at the Committee that they retain an open mind and they will not finalise their position until the Regulation Committee. They will also consider the matter at Regulation Committee as members of that committee and not as representatives of the Area Committee.

- C. Portfolio Holders with responsibility for development or regeneration (specifically or generically) need to consider the extent to which they are involved in a proposal. If they are seen as a champion of or advocate for a particular scheme or are pressing for or are committed to a particular development type during the strategic consideration of a proposal then they should consider to what extent they should be involved in determining the associated application. It may be more appropriate in these circumstances for them to make representations in support of the application but not vote.

This code and associated advice looks to allow Councillors to fully participate, act as community champion and vote on an application other than where they have expressed strong opinions either for or against an application that gives the impression that they have already made their mind up prior to the meeting convened to consider it.

Essentially District Council members must always refrain from campaigning or forcefully expressing an opinion at a meeting/forum before the formal decision is made by committee if they want to retain the ability to fully participate. Councillors should not commit themselves, or the Council, to a particular course of action when lobbied by applicants or objectors. Councillors should always wait until they have received all the relevant information and advice before coming to a decision – i.e. consider all the issues when presented at committee. Unless this is the case, it would be difficult to claim that they retain an open mind and this would leave the council's decision-making open to challenge. It is entirely legitimate for Members to have an initial view on an application and to discuss this view publicly; it is part and parcel of their role and would be expected by those who seek their guidance and support. However they must always ensure that despite this and the inevitable pressure to “nail their colours to the mast” they retain and are seen to retain an open mind.