



Haringey Council

Report for:	Regulatory Committee	Item number	
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Title:	Role of ward councillors in the planning application process.
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Report authorised by	Marc Dorfman Assistant Director Planning Regeneration & Economy
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Lead Officer:	Vincent Maher Head of Development Management
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Ward(s) affected: N/A	Report for Key/Non Key Decision: N/A
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- 1. Describe the issue under consideration**
This report clarifies the role of ward councillors during the processing of planning applications and appeals.
- 2. Cabinet Member Introduction**
N/A
- 3. Recommendations**
That the Regulatory Committee consider and discuss the information contained in the report.
- 4. Comments of the Chief Financial Officer and Financial Implications**
No financial implications
- 5. Head of Legal Services and Legal Implications**
No current Legal implications (the legal service was consulted in the preparation of this report)

6. Equalities and Community Cohesion Comments

6.1 The Council has a public sector equality duty under S149 of the Equality Act 2010 to have due regard to need to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who those characteristics and people who do not.

6.2 The Policy and Equalities Team have been consulted in the preparation of this report and they comment that the proposals outlined in this report carry no apparent implications for the any aspect of duty outlined above.

- 1. Role of Ward Councillors in discussions with planning officers and applicants**
 - 1.1 Ward councillors represent the ward on a wide range of matters including planning matters and planning applications. Where ward councillors perform a dual role as both ward councillor and a member of the Planning Sub-Committee, they must be aware of their obligation to keep an open mind on planning applications that they will determine. They must not pre-determine or be seen to pre-determine a planning application. Pre-determination occurs where someone has a closed mind with the effect that they are unable to apply their judgment fully and properly to an issue requiring a decision.
- 2. Ward councillors' role in pre-application advice**
 - 2.1 Applicants are being urged to consult widely at the pre-application stage in order to try to resolve any planning issues which may arise from the proposed development at an early stage.
 - 2.2 Ward councillors may receive information provided by applicants about applications they intend to make. Ward councillors may wish to respond and/or attend presentations and exhibitions but should be wary of attending such meetings. However, ward councillors who are also members of the Planning Sub-Committee should be aware of constraints that could amount to them appearing to pre-determine cases and not meet applicants or objectors to discuss cases.
- 3. Ward councillors' involvement on planning applications**
 - 3.1 Ward councillors are consulted on all planning applications and other development proposals in their ward.
 - 3.2 Often, though not always, councillors become involved in planning applications as a result of letters and e-mails they receive from local residents about an application. Ward councillors can comment in their own right and/or on behalf of local residents. Councillors can also contact the case officer or the Head of Development Management to discuss an individual case, to find out about the planning issues, timescales for responses, whether or not changes can or will be made prior to decision, when the decision might be made and what the recommendation might be.
 - 3.3 Many councillors respond to a planning application by email, letter, and telephone on their own behalf too. It is not the role of ward councillors to negotiate directly with the applicant; this is a matter for the planning officers. Ward councillors should not meet applicants alone but should only do so if accompanied by the planning case officer. Planning officers must and do take into account any submission made by ward councillors as a material consideration in an application when they are writing up cases for approval or refusal.
 - 3.4 Ward councillors sitting on the Planning Sub-Committee have a duty to the whole community and should serve only the public interest. They should be

as open as possible, avoid suspicion and deal with the matter based on whether other people, knowing the facts of the situation, might reasonably think that their actions were not biased. This means they should not have any involvement with cases that will be considered by the Committee.

4. Ward councillors' role in relation to planning appeals

4.1 If a planning application is refused planning permission and the applicant decides to appeal to the Planning Inspectorate. Councillors and local residents can make representations to a Planning Inspector as part of the process of consideration and determination of the appeal. Where an appeal is carried out by Informal Hearing or Public Inquiry, councillors may attend and with the Inspector's approval make representation or give evidence to the Inquiry. Most appeals are dealt with by way of written representations which only requires the submission of written statements over which there is no cross examination.

4.2 Ward councillors and residents will normally be informed of the appeal by the Planning Service. There is a strict timetable set by the Planning Inspectorate to be adhered to when making representations. The Planning Inspectorate will not consider late representations. Any representations must be planning related only.

5. Conclusion

5.1 The role of ward councillors in dealing with planning matters in general and planning applications in particular is seen as an important part of the planning process and the process of consultation and consideration of planning applications and planning application decision making.

5.2 Councillors have an important role in representing themselves and their constituents in the planning process. The Planning Service actively seeks to consult councillors in relation to planning applications in their ward. Applicants are made aware by the Planning Service of the need to consult ward councillors and to take into account their comments views at both the pre-application and application stage. Councillors should consider attending appropriate training in planning matters in order to be in a position to effectively engage with the planning process and participate in the decision making process.

5.3 The attached Do's and Don'ts list suggests how councillors can best engage in the planning process.

positive engagement

a guide for planning councillors
updated version



'The engagement of local councillors as leaders and representatives of the community is vital in the delivery of positive outcomes from the planning process.'

positive engagement

a guide for planning councillors

A message from **Iain Wright MP Parliamentary Under Secretary of State, DCLG** and **Paul Bettison, Environment Board Chairman, LGA**.

There have been some considerable changes over the last few years in how the planning process is delivered within England with a move away from an often adversarial, reactive and conflict based system towards a more pro-active, inclusive and creative approach.

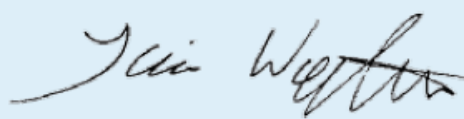
As a local councillor involved in planning matters, whether as a ward councillor representing your area's constituents as a councillor responsible for drawing up the spatial plan for your area, or as a councillor responsible for deciding upon application you have a crucial role to play in both making the planning system work and ensuring the best possible outcomes for your community for both now and in the future. The engagement of local councillors as leaders and representatives of the community is vital in the delivery of positive outcomes from the planning process.

However, concerns are sometimes expressed about the compatibility of councillors meeting developers and interest groups and then taking decisions on an impartial basis.

This leaflet is an updated version of the positive engagement for elected members launched in 2005. It is intended to summarise the principles that should be observed to enable you to both participate in and lead the system.'



Paul Bettison



Iain Wright

In broad terms, the success of the planning system will depend on:

- establishing and taking forward a clear spatial vision for the area based on the sustainable community strategy
- effective dialogue between applicants, local authority, local people and other interests to help define and realise the vision
- ensuring that the spatial plan for an area embodies the aspirations of the community
- effective communication and ownership of policy between executive and planning committee
- the planning service being focused on outcomes
- early and effective community engagement in discussions on plans and development proposals, in accordance with the authority's Statement of Community Involvement.
- upholding the ACSeS Model Members Planning Code

As a community leader and local representative you will want to be involved in relevant public meetings, pre-application discussions and policy production. However, this may create some risks for councillors, particularly those who are members of the planning committee, and for the integrity of the decision making process. You should familiarise yourself with guidance found in the LGA guide *Probity in Planning (update)* – the role of councillors and officers, guidance from the Standards Board for England which provides an overview of the Model Code of Conduct which applies to all members and co-opted members of local authorities and the ACSeS Model Members Planning Code. (see the weblinks at the end of this leaflet).

Councillors can involve themselves in discussions with developers, their constituents and others about planning matters. However, difficulties can be avoided if you follow these useful general hints:

do

- ✓ always involve officers and structure discussions with developers
- ✓ inform officers about any approaches made to you and seek advice
- ✓ familiarise yourself with your authority's Code of Conduct and follow it when you are representing your authority
- ✓ keep your register of interests up to date
- ✓ follow your local authority's planning code
- ✓ be aware of what predisposition, predetermination and bias mean in your role – ask your monitoring or planning officer and refer to the Standards Board Occasional Paper on Predetermination, Predisposition and Bias if unsure
- ✓ be prepared to hold discussions with an applicant and your officers before a planning application is made, not just after it has been submitted to your authority
- ✓ preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding
- ✓ be aware of what personal and prejudicial interests are – refer to your monitoring officer and the Standards Board's website if you are unsure
- ✓ recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role
- ✓ stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- ✓ use meetings to show leadership and vision
- ✓ encourage positive outcomes
- ✓ ask for training from your authority in probity matters
- ✓ recognise that you can lobby and campaign but that this may remove you from the decision making process
- ✓ feed in both your own and your local community's concerns and issues
- ✓ be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

do not

- X use your position improperly for personal gain or to advantage your friends or close associates
- X meet developers alone or put yourself in a position where you appear to favour a person, company or group – even a ‘friendly’ private discussion with a developer could cause others to mistrust your impartiality
- X attend meetings or be involved in decision-making where you have a prejudicial interest under the Model Code of Conduct – except when speaking when the general public are also allowed to do so
- X accept gifts or hospitality
- X prejudge or be seen to prejudge an issue if you want to be a decision maker on a proposal
- X seek to influence officers or put pressure on them to support a particular course of action in relation to a planning application
- X compromise the impartiality of people who work for your authority
- X invent local guides on probity in planning which are incompatible with current guidance – look for commonly held and common sense parallels in other authorities or the principles set out in national guidance

This simple guide has been produced by a number of organisations who have shared interest in maximising the effectiveness of councillor involvement in planning.

They include: the Local Government Association, Association of Council Secretaries and Solicitors, the Standards Board for England, Planning Advisory Service and The Department of Communities and Local Government and Planning Officers Society.



weblinks

The Association of Council Secretaries and Solicitors

Model Members Planning Code

www.acses.org.uk/documents/category/4

Department of Communities and Local Government

www.communities.gov.uk

Local Government Association

Probity in planning (update): the role of councillors and officers

www.lga.gov.uk/planning

A LGA update to the highly successful original guidance (published in 1997) on preparing a local code of good practice for those dealing with planning matters will be available shortly

National Planning Forum

Pre-application advice for town and country planning:

National Planning Forum good practice note 2 one of a series of 'inspiring planning' good practice notes

www.natplanforum.org.uk/good%20practice.html

Planning Advisory Service

Member development modules

www.pas.gov.uk/membertraining

Planning Officers Society

Members and Planning

www.planningofficers.org.uk/article.cp/articleid/176

The Standards Board for England

Guidance on the Model Code of Conduct, including personal and prejudicial interests

www.standardsboard.gov.uk/TheCodeofConduct/Guidance/

Fact sheets and Frequently Asked Questions

www.standardsboard.gov.uk/TheCodeofConduct/Factsheetsandfrequentlyaskedquestions/

Paper on predisposition, predetermination or bias, and the Code

www.standardsboard.gov.uk/Publications/OccasionalPaper/

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