

**KENT COUNTY COUNCIL
STANDARDS COMMITTEE**

Advice Note 4

**ADVICE TO MEMBERS ON THE APPLICATION OF
THE CODE OF MEMBER CONDUCT TO DEVELOPMENT CONTROL**

(Approved by the Standards Committee on 27 April 2009)

1. This note gives advice to Members who:
 - are members of the Planning Applications Committee
 - sit in on a meeting of the Planning Applications Committee as a substitute Member

2. The provisions of the Code of Member Conduct regarding conduct, the registration and declaration of interests, and the acceptance and registration of gifts and hospitality, apply to the proceedings of the Planning Applications Committee and other discussions in which Members may become involved on planning applications and other development control proposals.

3. The Local Government Association, supported by the Standards Board for England, has issued a short but useful guidance note *Positive engagement - a guide for planning councilors (updated version)*. Separately the Standards Board for England has also issued a more detailed and helpful occasional note *Predisposition, Predetermination or Bias, and the Code*. Copies of these documents are obtainable from Democratic Services.

4. Where this note refers to an application, it applies also to any other decision coming before the Council as a local planning authority that is not the responsibility of the Leader and Cabinet.

Interests

5. If you have a personal interest in an application make sure you declare this at any meeting. It would be prudent also to notify the Monitoring Officer in writing so that the interest can be publicly recorded in the Register of Members' Interests.

6. If the interest is a prejudicial one you should take no part in any discussion on the application, either inside or outside committee meetings. If you are the Local Member, you should arrange for a colleague representing a nearby division to represent your constituents.

Executive and Lead Members

7. If you are a Cabinet Member or a Deputy Cabinet Member (including Chairman of the Schools or Highways Advisory Boards), you should not take part as a voting Member in a debate by the Planning Applications Committee on an application by the Council, e.g. for a highway or school scheme. You may, with the Chairman's consent, speak to other Members outside the Committee meeting or at the meeting itself, but you should always remind the Member(s) of your responsibilities and position so that they and the public are aware of these when considering what you have to say. Take care you are not seen to be attempting to exercise undue influence on the other Member(s) through your position in the Council or party group.

Planning Applications Committee Members

Training

8. Before taking up a position as a voting member of the Planning Applications Committee, you should receive basic training in your duties. This will normally take the form of a discussion of this advice note with an officer nominated by the Monitoring Officer, as well as a discussion with a senior planning officer.

9. Once appointed, you should take part in all training sessions on planning law, policy and practice organised for members of the Committee. If you cannot attend, you should request a personal briefing from the Planning Officer.

Information

10. You should approach all decisions on applications with an open mind and ensure you are as well informed as possible by:

- attending site visits or inspections on applications agreed by the Committee wherever possible
- ensuring you always read the Planning Officer's report thoroughly and come to the meeting prepared to be persuaded to take a different point of view
- not voting if you have not been present to hear the entire debate, including public comments and the Planning Officers' introduction.

Dual Membership

11. You may take part as a voting member in the consideration of an application by the Planning Applications Committee if you also serve on an advisory board, district or a parish council which has been consulted on or is otherwise involved with the application. Dual membership does not of itself create a prejudicial interest that requires you to leave the room. It is, however, necessary for you to be able to demonstrate, if challenged, that you came to the debate with an open mind, without having previously formed a fixed or predetermined view on the issue and that you have considered all the relevant facts and arguments.

12. You should consider carefully what you say at meetings of other boards or councils whether you attend as a member of that board or council or as a KCC Member. You should declare at those meetings that if you come to consider the matter as a voting member of the Planning Applications Committee, you will consider the matter afresh, taking into account all the information and views you will then have before you, including those expressed at these boards or councils' meetings.

13. At the Planning Applications Committee meeting you should declare a personal (but not necessarily prejudicial) interest as a member of the board or parish/district council. You should say if you attended or participated in the board or parish/district council meeting but make it clear that you have not reached a final conclusion, but instead are considering the matter at Planning Applications Committee meeting afresh and not bound by board or parish/district council's views.

14. If you do not feel able to make such a declaration you should regard yourself as having a prejudicial interest. You should declare that interest and leave the meeting before consideration of that item. Alternatively, you may wish to arrange to be substituted at that meeting and speak instead as a Local Member (assuming the matter affects your division). In that case, you must make clear when you speak that you have done this and why.

15. If you are associated with an external body that is the applicant (or a major beneficiary of the proposals, e.g. a school governing body for new school buildings) you should not participate as a voting member but declare that interest. With the Chairman's consent you may still speak on the same basis as a Local Member. If you have voting rights, you should ensure that your abstention is recorded in the minutes.

Lobbying by local residents, consultees and objectors

16. In any discussions with local residents, objectors or consultees you should be careful not to say how you might vote or express any opinion on the merits prior to your formal consideration of the matter at the Committee meeting. Explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality to express a firm point of view or an intention to vote one way or another.

17. If you decide to argue vigorously for a particular point of view in relation to an application on behalf of some or all of your constituents, or to become a member of a lobbying group for or against a specific proposal, you should not exercise your rights at the meeting of the Planning Applications Committee to vote or move or second any motion or amendment. You should inform the Chairman of this before the meeting begins and declare that intention at the beginning of the debate on the item.

18. If you are a member of a lobby, campaign or other group or association that is actively expressing a view on the application or other matter before the Committee, you are likely to have a prejudicial interest and should follow the advice in paragraph 14 above. More detailed advice is available on dual-hatting and membership of lobby groups from the Head of Democratic Services and Local Leadership.

Lobbying by Applicants or Developers

19. You should inform the Monitoring Officer in writing if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

20. You should refer applicants/developers who approach you for planning or procedural advice to officers wherever practicable and report any significant contact to the Planning Officer.

21. You should not take part in any meeting, presentation or site visit organised by applicants or developers unless a Planning Officer is present and can make a written file record of the discussion.

22. At any such presentation or discussion:

- ask relevant questions for the purposes of clarifying your understanding of the proposals
- remember that the presentation is not part of the formal process of debate and decision by the Planning Applications Committee
- be careful not to express any strong view or state how you or other Members might vote.

23. If you decide to inspect the site of an application by yourself make sure you stay on the public highway or public land. If you are spoken to by an employee or representative of the landowner or a local resident, explain who you are and why you are looking at the site but follow the preceding advice about not expressing an opinion.

Local Members

24. In discussion with your constituents or others be careful not to give the impression that the Planning Applications Committee will approve or refuse the application or that it will do anything other than reach a decision in accordance with planning law, policy and good practice.

25. If you are a member of the Committee and also the Local Member, remember that your overriding duty is to the whole community not just to the people in your ward and take account of the need to make decisions impartially. If you do not feel able to do this but want to argue the case for your constituents, do not take part in the debate as a voting member but make it clear that you are abstaining on that issue and why. You may vote on other issues raised in the meeting, or alternatively, you may wish to ask your political group to arrange for a substitute for the entire meeting so you can attend and speak on the specific item as the Local Member.

26. At a meeting where an application will be considered in which you will participate as a Local Member, you should not normally agree to serve as a substitute member.

27. If you sit on the applicant/benefiting body (e.g. a school governing body) but are not a member of the Planning Applications Committee, make sure if you speak to any member of the Committee about the application that they know of your membership and interest. Remember that if you speak at the Committee meeting, you have to declare your interest before speaking.