

PLANNING CODE OF CONDUCT - REVISIONS

Report By: County Secretary and Solicitor

Wards Affected

County-wide

Purpose

1. To review the Planning Code of Conduct in the light of recent case law.

Planning Code of Conduct – Appendix 13

2. As reported to Council by the Standards Committee at its January meeting, the Court of Appeal case (Richardson and Orme -v- North Yorkshire County Council) (recently upheld by the House of Lords) requires the Council to reconsider certain sections of the Planning Code of Conduct as currently drawn. In particular, the section dealing with **Applications in which a member of the Council has an interest**. The House of Lords has since confirmed the Judgement that Councillors are quire properly excluded from meetings where they have a prejudicial interest under agency laws. Whilst what ever a person has power to do himself he may do by means of an agent, the converse position similarly holds good that what a person cannot do himself he cannot do by means of an agent. Paragraph 39 which allows councillors to appoint an agent who can speak on their behalf in relation to individual applications therefore needs to be redrafted as follows.

“39. **You must take no part in the determination of the application. You must declare a prejudicial interest and leave the meeting and not seek to influence any decision made.** ~~You may, however, appoint an agent who can speak subject to Standing Order 5.11 (Public Speaking at Meetings of Planning Committee and Area Planning Sub-Committees) on your behalf.~~”

3. There are also some consequential tidying up amendments required to paragraphs 25, 26, 36 and 37 of the Planning Code of Conduct as follows:

“Material Submitted to Committee

25. If you receive material from or on behalf of an applicant or third party in connection with an application before a Committee you should establish from the Planning Officers whether the material has been received by them. If it has not, you should make it available as soon as possible to the Planning Service.
26. Relevant documents in connection with an application should all be dealt with in the officer's report to Committee. Any additional information received after the preparation of that report up to on the day before the Committee meeting will also be brought to the attention of the Committee if they raise new and relevant material planning matters. Papers received after that time will normally be discounted, since time will not be available to check their

Further information on the subject of this report is available from
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accuracy or to give consideration to their implications.

Non Members of Planning Committee Attending Meetings

36. You may attend meetings of the Council's Planning Committees even if you are not a member unless you have a prejudicial interest. **You may speak but not vote on items under the procedures laid down in the Constitution.** When you attend any Planning Committee, you should not sit in the public gallery, but in the place reserved in the Committee room for Members of the Council who are not Members of the Planning Committee. When you speak at the meeting, either the Chairman of the Committee in calling upon the you to speak or you in speaking should make it clear upon what basis you are taking part in the meeting, and that you have no right to vote on the application concerned. The rules on declaring interests set out at paragraphs 27-30 of this Code apply at all times.

Decisions Contrary to Officer Recommendations or to Development Plan Policies

37. From time to time, there will be occasions when you or the Committee of which you are a member disagree with the professional advice on an application given by the Head of Planning Services. In such cases the reasons for differing from the professional advice received should be specified in the resolution of the Committee, along with the reasons for refusing an application recommended for approval or the conditions to be imposed on any approval in a case recommended by officers for refusal. The same provisions apply to decisions taken contrary to Development Plan policies. These cases will be referred to the Head of Planning Services for consideration as to whether the decision on the application in question should be referred to the main Planning Committee for determination in accordance with the Council's Constitution."

RECOMMENDATION

THAT the Standards Committee agree to recommend to Council the revisions proposed to the Planning Code of Conduct.

BACKGROUND PAPERS

- None identified.