

## Code of Practice for Planning Matters

Following consultation with the Planning Committee, the Council has adopted this Code of Practice for Planning Matters recommended by the Council's Standards Committee. It takes into account the recommendations of the third report of the Nolan Committee, the Government's response as set out in Modernising Local Government – A New Ethical Framework, the guidance produced by the Local Government Association as well as drawing on the Council's own experiences.

The Code aims to give clear guidance to Members and officers on how they deal with planning matters, with the intention of ensuring that the public can have confidence that the decision-making of the Council is open and fair.

The majority of planning applications, usually the non controversial ones, are dealt with by officers under delegated powers.

However some planning applications can be referred to the Council's Planning Committee. In addition, planning policy issues are considered by the Cabinet and the Overview and Scrutiny Committee and eventually adopted as policy by full Council. This Code applies whoever takes the decision.

The Code applies to the full range of planning matters considered by the Council.

The Code is based on the provisions of

- The Local Government Act 2000
- The Localism Act 2011
- Members' Code of Conduct
- Good practice guidance from the Local Government Ombudsman
- The Council's procedure rules.

Extracts and copies of the relevant documents are available from the Democratic Services Department. Members and officers are obliged to observe the requirements set out in these documents.

## 1 Training

1.1 Planning legislation and guidance can be complex. The Council's Constitution requires that Members receive training on the planning process when first serving on the Planning Committee and refresher training provided every 2 years. The Head of Democratic Services and Monitoring Officer, in conjunction with the Head of Planning, can use his discretion, in certain cases, to extend the two year period having regard to the Member's proven knowledge and experience.

1.2 Update training is also provided.

1.3 Training is provided for all Members on the Members' Code of Conduct to remind them of their basic responsibility for registering and declaring interests.

1.4 Members are recommended to seek advice and guidance from the Head of Democratic Services and Monitoring Officer in advance of any meeting to clarify any doubts over whether such declarations should be made.

## **2 Development proposals submitted by Councillors and officers**

2.1 The Council fully recognises that proposals by serving Councillors, officers and relatives whether for themselves or as agents for others can easily give rise to suspicion of impropriety. In order to ensure that they are handled in a way which gives no grounds for accusations of favouritism:

- (1) the Head of Democratic Services and Monitoring Officer and the Head of Planning will be informed of such proposals;
- (2) if there are any objections received to such proposals these will be reported to the Planning Committee for decision and not dealt with by officers under delegated powers. For those proposals where no objections are received, decision notices will be signed off by the Deputy Chief Executive.
- (3) Councillors who submit planning proposals in their own right or on behalf of others must play no part in the decision making process for that proposal.

## **3 Council development**

3.1 Proposals for the Council's own development will be referred to the Planning Committee for determination.

3.2 Applications for works to TPO trees on the Council's own land will be determined by the Head of Planning in consultation with the Deputy Chief Executive unless objections are received and in these instances the application will be referred to the Planning Committee for determination.

## **4 Guiding principles for Members' conduct in planning matters**

4.1 The conduct of all Members in dealing with planning matters needs to be guided by

- (1) the Members' Code of Conduct
- (2) the legal rules which apply to participation in local authority decision making.

4.2 The principles that apply are complex and are interrelated but can be

summarised as follows:

- (1) **Disclosable pecuniary interest** Members attending the Planning Committee as committee members or otherwise must declare any disclosable pecuniary interests they have registered under the Members' Code of Conduct. They can make representations to the meeting but must leave the room for the remainder of the debate and the formal determination of the application.
- (2) **Non pecuniary interest** Members attending the Planning Committee meeting as committee members or otherwise must declare any non pecuniary interests they have under the Members' Code of Conduct but can remain, speak and vote unless the interest also leads to "pre-determination" or "fettering discretion" issues explained below.
- (3) **Non disclosable prejudicial interest** All Members who have both a non prejudicial and non disclosable prejudicial interest under the Members' Code of Conduct must declare the interest and leave the meeting after exercising their right to speak. No attempt must be made to influence from "behind the scenes".
- (4) **Pre-determination and fettering discretion** Members participating in planning decisions are required to keep an open mind on the decision until the vote is taken. Members of the Planning Committee are required to ensure that they are scrupulously careful not to express any opinion on planning applications prior to the meeting at which they are to be determined. There is in this category a clear distinction between members of the Planning Committee and other Members.
  - (a) non committee members can form whatever view they wish and speak about it at the meeting and remain to hear the debate and vote.
  - (b) committee members (including Ward Members) who have expressed a view but who have genuinely made it clear that it is preliminary and may change at the meeting, should state this at the meeting so that it is recorded in the minutes but may then remain, take part in the debate and vote on the application.
  - (c) committee members (including Ward Members) who have expressed a view which will not change should state this at the meeting so that it is recorded in the minutes and may take part in the debate but should not vote. It would be preferable for such Members to remove themselves from the seats reserved for committee members during the item.

- (5) **Members serving on more than one tier of local government** The advice of the Department for Communities and Local Government is that provided the Member has not acted at parish or county level in such a way that they have pre-determined the matter or fettered their discretion as a Member, the position for members of the Planning Committee is that they can remain in the meeting, speak and vote. However, the advice of the Standards Committee is that Members who serve on parish/town councils and the Council should make it clear that if they make any views at parish or town council level then they reserve their position to change their opinion in the light of additional information provided at the Planning Committee which is not available at the parish/town council meeting. This additional information includes the planning officer's report, the views of statutory committees and other representations received.

#### 4.3 **Fettering discretion**

An authority will be acting unreasonably where it refuses to hear applications or makes certain decisions without taking individual circumstances into account by reference to a certain policy. When an authority is given discretion, it cannot bind itself as to the way in which this discretion will be exercised either by internal policies or obligations to others. Even though an authority may establish internal guidelines, it should be prepared to make exceptions on the basis of every individual case

### 5 **Lobbying of, and by, Councillors**

5.1 The Council recognises that lobbying is a normal and perfectly proper part of the political process. However, lobbying can lead to the impartiality or integrity of a Councillor being called into question. As a result:

- (1) when being lobbied, Councillors should take care not to express an opinion which may be taken as indicating that they have already made up their mind on the issue before being exposed to all the evidence and arguments;
- (2) if Councillors do express an opinion then they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the committee which determines the application;
- (3) if lobbied, Councillors should suggest to those who are lobbying that they speak or write to the relevant planning officer so that their views can be taken into account;
- (4) members of the Planning Committee other than those who are Councillors for the affected ward – for which see paragraph (5), should not openly declare which way they intend to vote in advance of the committee meeting and of hearing the evidence and arguments on both sides;

- (5) a Planning Committee member who represents a ward affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the Member decides to support openly a particular outcome – or even campaigns actively for it – that Member needs to argue convincingly when the committee comes to take its decision that he has carefully weighed the evidence and arguments presented. A Member who belongs to a lobby group that is campaigning for a particular outcome will have a non prejudicial interest under the Members' Code of Conduct. The Member should declare this at the start of the meeting. Unless the matter relates to an application affecting the lobby group to which the Member belongs the interest will not be prejudicial but it may amount to predetermination in which case the Member cannot vote on the item. In such cases Members are recommended to seek the advice of the Monitoring Officer or Senior Committee Officer – preferably in advance of the meeting.
  - (6) similarly, a Planning Committee member who decides to support openly a particular outcome for a planning matter which does not affect that Member's ward should consider if his support amounts to a non prejudicial interest under the Members' Code of Conduct. If it is a non prejudicial interest then the Member should declare this at the start of the meeting, however the interest will not be prejudicial.
- 5.2 Members of the Planning Committee who are also members of a town/parish council and who may be required to participate in discussion regarding responses to notifications of planning applications or other planning matters may express an opinion in advance of having heard all the relevant evidence and arguments. If the Member decides to support openly the town/parish council view – or even campaigns actively for it – that Member will need to demonstrate when the Committee comes to take its decision that he had carefully weighed the evidence and arguments presented and is considering the matter in the interests of Broadland as a whole.
- 5.3 The Cabinet members responsible for economic development and communities and housing will need to exercise particular care if they speak at Planning Committee or are also a member of the Planning Committee. There may be occasions where the Cabinet member will wish to press for a particular development which the Member regards as beneficial to the development of the area. In such circumstances the Member may well be so committed to a particular development that he may well not be able to demonstrate that he is able to take account of counter arguments before a final decision is reached. The Cabinet member will need to consider if his commitment to the development amounts to a personal interest under the Members' Code of Conduct, which should be declared at the start of the meeting. However, the interest will not be prejudicial.
- 5.4 (1) Councillors are encouraged to discuss their concerns with the relevant planning officer. The protocol for doing this is attached as Appendix 1 to this Code.

- (2) Political group decisions must not be taken on planning applications and related matters.
- (3) Councillors should not agree with one another on how to vote on particular matters.
- (4) Councillors should pass any relevant written information which they receive to officers so that it can be reported or responded to prior to any meeting of the committee responsible for planning matters.
- (5) Councillors submitting applications for planning permission or with an interest in planning matters which in the normal course of events would have to be declared, should not seek to lobby or influence members of the committee to determine the matter in a particular way.

5.5 In the event that a decision of the Council is challenged, such as an appeal against a refusal to grant planning permission, unless corresponding or appearing as a witness on behalf of the Council, Members and officers should make it clear in any correspondence or appearance that they make, that they are not acting as a representative of the Council, that the views are given in an individual capacity and are not necessarily the views of the Council. Failure to do so could undermine and adversely affect the Council's representative in defending the Council's position. Any Member wishing to make representations at a planning inquiry is asked to advise the Monitoring Officer or Head of Planning in advance.

## **6 Pre-application discussions**

6.1 The Council recognises that discussions between a potential applicant and the Council prior to the submission of a planning application – and even after its submission – can be of considerable benefit to both parties. However, it would be easy for such discussion to be seen to become part of the lobbying process. To avoid this, any discussions with applicants or potential applicants should take place within the following guidelines:

- (1) it should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional;
- (2) any advice should be consistent and based upon the Development Plan and material considerations. In addition, all officers taking part in such discussions should make it clear whether or not they are the decision maker;
- (3) a written note should be made of all potentially contentious meetings. At least one officer should attend such meetings and a follow up letter is advisable at least when documentary material has been left with the Council. A note should also be taken of similarly, potentially contentious telephone discussions;

- (4) care must be taken to ensure that advice is and is seen to be, impartial; otherwise a subsequent report could appear to be advocacy of a particular case and
  - (5) presentations to Members by applicants will not be entertained once a planning application has been submitted.
- 6.2 Councillors should avoid indicating the likely outcome of an application. Planning Committee members should not express any personal view on the merits of the application. They must also avoid negotiating with an applicant on possible amendments to an application. However, an officer whilst clearly making no commitment may, on the basis of the Development Plan and policy documents, give a personal view on what the likely outcome of an application would be. Nevertheless, the officer should make it clear that this opinion may not be shared by the Planning Committee when determining the application.
- 6.3 These guidelines apply equally to meetings called by third parties, such as parish/town councils, to discuss planning applications.
- 6.4 Councillors are reminded that they have no right of access to land or buildings the subject of a planning application or planning action without the express consent of the landowner and/or occupant.

## **7 Commenting on planning applications**

- 7.1 Members are notified of planning applications within their wards and asked to comment. Any comments received will be taken into account in the determination of the application. When Members who sit on the Planning Committee receive notification of a planning application within their ward they should refrain from expressing a clear opinion in any response, as to do so may well prejudice their ability to vote on that matter when it comes before the Committee. Members are encouraged to express any issues of concern, but where an opinion is expressed this should be qualified with the following statement:-
- “Any opinion I give is based on the information currently available and I may change this view if I receive additional information.”
- 7.2 A copy of the comments received will be retained on file.
- 7.3 Members of the Planning Committee who express an opinion in their response to the notification should declare an interest in the particular item.
- 7.4 Any Member of the Council who wishes to speak on a particular item may do so with the consent of the Chairman of the Planning Committee in accordance with the rules set out in paragraph 11.

## 8 Members' power of call in

- 8.1 Any Member of the Council has the ability to 'call in' an application or planning related matter to Planning Committee for consideration, rather than allow the application or planning related matter to be determined by officers using their delegated powers.
- 8.2 A weekly list of planning applications is published on the website. Members are encouraged to contact the case officer to discuss any applications on which they require further information. If, within 21 days of having received notification of the application, a Member considers that the application should be considered by the Planning Committee, they should put their request in writing to the Head of Planning, identifying the application and clearly stating the justification why they wish the application to be 'called in' to Planning Committee for determination. It is permissible to couch the 'call in' in the following terms:
- refer to committee if the officer recommendation is to approve;
  - refer to committee if the officer recommendation is to refuse;
  - refer to committee in any event

in each case to justify the reasons to support the call in.

In the event that the deadline for town / parish council representatives is extended by agreement with the case officer, the deadline for Members' call in shall be extended to one working day beyond that granted to the town / parish council.

The Head of Planning will action the 'call in' request accordingly but has discretion to refuse a request if it does not meet the call-in criteria.

In the event that a call in is refused, the Member is advised in writing.

- 8.3 A Member who has exercised his power of call in may still speak and vote on the application as a member of the Planning Committee provided that he has not expressed a view on what the outcome of the application should be. If a Member has expressed a view then he should declare a personal interest in the item and may take part in the debate but should not vote. It would be preferable for such Members to remove themselves from the seats reserved for committee members whilst the application is discussed.
- 8.4 Where a Member exercises their right to call in an application, the expectation is they will attend the Planning Committee when the application is considered to present their views.

## **9 Enforcement matters – Members' power of call-in**

- 9.1 All Members receive the list of enforcement cases and if there is a case which raises a particular concern in their ward they should proactively notify the Enforcement Team. The team will then effectively “flag” that case and, in the event that they are minded to take no further action and close the case, they will be required to notify the Ward Member of their intention and their reasons for closing the case. The Ward Member will then have two weeks to call-in the case to the Planning Committee. If no response is received then the case will be closed. If a call-in is requested during the two week period, the case will be referred to the Planning Committee.
- 9.2 A flow chart for this process is included at Appendix 3.

## **10 Officer reports to committee**

- 10.1 Committee reports on planning proposals will comply with the following guidelines:
- (1) reports will be accurate and will include the substance of objections and the views of consultees. Planning application files, containing the original representations/response to consultation are available for Members to inspect. As these are working files, Members are advised to contact the case officer prior to visiting the office to ensure the file is available;
  - (2) relevant points will include a clear exposition of the Development Plan policies, the site, related history and any other material considerations;
  - (3) the report should have a clear recommendation. Consultations and representations received after the preparation of the committee report must be reported in the supplementary schedule or reported orally at the meeting. Oral reporting (except to update a report or to report on late representations) should be extremely rare and carefully minuted when it does occur;
  - (4) reports should contain a technical appraisal which clearly justifies a recommendation and
  - (5) if the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 10.2 Representations or amendments from applicants or third parties will only be brought to the attention of the committee if received by noon on the last working day preceding the meeting of the committee.

## **11 Public speaking at Planning Committee meetings**

- 11.1 The Council operates a scheme of public speaking at Planning Committee

meetings. This applies to town / parish councils; people who have made written representations and the applicant / agent.

## 11.2 Procedures

### (1) Speaking rights

- Parish/town councils and parish meetings
- Objectors and supporters (including applicants/agents) have the right to speak
- All interested parties in respect of planning enforcement issues which require a committee decision, with the exception of matters relating to the prosecution of alleged offences

This right does not apply to statutory consultees, the views of which are already accommodated within the reporting process.

### (2) Exercising rights

Third parties will have the opportunity to speak immediately after the officer presentation. Representations will be heard in the following order:

- Parish/town councils and meetings
- Objectors
- Supporters, with the applicant/agent having the opportunity to speak last

or

- Parish/town councils and meetings
- Complainants
- Alleged offenders

### (3) Subjects for public speaking

Subjects will involve applications for planning permission and amendments, approval of reserved matters, listed building consent, advertisement consent, conservation area consent and planning enforcement matters. It will also include reports relating to amendments to existing permissions and enforcement matters, except where potential for a criminal prosecution exists. The scheme will also apply to matters on which the views of the Council have been sought and will be determined by another local planning authority.

Only verbal evidence will be acceptable.

(4) **Time allocated for public speaking**

A maximum of 5 minutes will be allocated to each person within each of the three categories with a maximum of 15 minutes per group; if there are several objectors/supporters or complainants they will have to agree beforehand on sharing or delegating their time. If agreement cannot be reached, it may be necessary for the committee to decide that all/some parties will not be heard.

(5) **Notice of intention to speak**

Persons wishing to speak at committee are requested to notify the Head of Democratic Services and Monitoring Officer by 5pm on the Friday prior to the meeting. The notice of intention to speak will be recorded by officers and details provided to each speaker. Where more than one parish / town council / parish meeting objector / supporter or alleged offender / complainant is involved, arrangements will be discussed with those parties to ensure that their allocated time is used to meet their requirements.

(6) **Questions of speakers**

Members of the committee will be able to question speakers once they have finished speaking (involving questions of Ward Members / Portfolio Holders). This will be additional time to that allocated for public speaking and should only be used to seek clarification on the point being made, not for the purpose of facilitating speakers to make additional points.

(7) **Chairman's authority**

Under the procedure rules, the Chairman retains the right to decline to hear someone if they behave improperly offensively or intentionally obstruct Council business.

### 11.3 **Members**

(1) Ward Members, Portfolio Holders and other Members may speak; 15 minutes being allowed for each category of Member, the time to be split between them if more than one Member in a category wishes to speak (with a maximum of 5 minutes per speaker).

(2) Members with a prejudicial interest may speak in accordance with paragraph 11.3(1) but must then immediately withdraw from the meeting.

(3) With the exception of Members who have declared a prejudicial interest, a Ward Member, Portfolio Holder or other Member, having spoken at the Planning Committee on a particular application, has the right of response, at the sole discretion of the chairman, in respect of

any new or additional matters, or matters that may require clarification emanating from the presentation of the case at the relevant committee meeting where the Ward Member, Portfolio Holder or other Member reasonably requests that right of response.

- (4) In this paragraph 'other Members' includes members of the Planning Committee who decide to speak in another capacity on an application.
- (5) Members who wish to speak in a personal capacity and not as Members are regarded as members of the public for the purposes of paragraph 11.2.

## **12 Decisions contrary to officer recommendation and / or the Development Plan**

- 12.1 The law requires that where the Development Plan [ie the approved structure plan and relevant adopted Local Plan] is relevant, decisions must be taken in accordance with it, unless material considerations indicate otherwise.
- 12.2 It follows that if the officer's report recommends approval of a departure, the justification for this should be included in full within the report and contained within the informative which will appear on the Decision Notice, if approved.
- 12.3 In addition, where the Planning Committee is minded to take a decision contrary to the officer's recommendation, they should first give the officer the opportunity to explain the implications of the contrary decision.
- 12.4 If the committee then makes a decision contrary to the officer's recommendation, the minutes should clearly state the reason why and a copy should be placed on the application file.

## **13 Material displayed at Planning Committee**

- 13.1 No material shall be displayed at committee unless it has been received by the Head of Planning or Area Planning Manager before 12 noon on the last working day preceding the meeting of the committee at which the item will be considered.
- 13.2 Tabling of letters, plans, sketches, and photographs by Members or third parties at the meeting will not be accepted.
- 13.3 If Members receive documentation direct from the applicant, fellow Members, or third parties and intend to have regard to the contents in their consideration of the application a copy should be passed to the Head of Planning, or Area Planning Manager at the earliest opportunity, to ensure that the contents are open to public inspection and scrutiny. Failure to do so could leave the Council open to a claim of maladministration or judicial review of any decisions made.

## **14 Site Visits**

- 14.1 Site visits will be conducted by the full Planning Committee that will determine the application. Site visits should only be used where the expected benefit is substantial. Members should make the request for a site visit at the earliest opportunity during the consideration of the application. The reason for the request must be clearly stated and will be set out in the minutes.
- 14.2 The purpose of a visit is to make a 'tour of inspection' by Members accompanied by an officer who will ensure that the issues raised by the application are drawn to Members' attention.
- 14.3 Invitations to the visit will be extended to other parties as appropriate, eg:
- Parish / town council
  - Local Member (where not a member of the Planning Committee)
  - The applicant
  - People who have made representations
- These invitations will be sent out by the Head of Democratic Services and Monitoring Officer.
- 14.4 Participating Members, including local Members, must not engage in any discussions on the application during the site visit.
- 14.5 Following the site visit the Planning Committee will return to Thorpe Lodge or other suitable venue as determined by the Head of Democratic Services and Monitoring Officer to discuss and determine the application. Public speaking rights will apply.

## **15 Publicity relating to planning applications and related matters**

- 15.1 The publicity given to planning applications and related matters is set out in a Code of Practice adopted by the Council, a copy of which is included at Appendix 2.

## **16 Publicity and procedures relating to amendments to applications**

### **16.1 Amendments during the life of an application**

- (1) When amendments are received prior to the determination of an application and the alterations are of a minor nature consultation will not be carried out.
- (2) In other circumstances, re-consultation should be undertaken in the normal manner.

- (3) Where appropriate and deemed necessary by the case officer.

## **17 Complaints and record keeping**

- 17.1 If a member of the public or an applicant wishes to complain about the Council's treatment of a planning application or planning related matter, in the first instance he should contact the Head of Planning. The complaint will be investigated by the relevant officer and an answer given. If the complainant is not satisfied with the answer, the complaint should be made to the Head of Corporate Resources under the Council's Complaints Procedure, if possible using the Council's Customer Complaint Form. Complainants will also be advised of their right to submit their complaint to the Local Government Ombudsman.
- 17.2 So that complaints can be fully investigated and, in any case, as a matter of general good practice, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, with particular care being taken with regard to applications that are likely to be determined under officers' delegated powers.
- 17.3 Decisions taken by officers under delegated powers will be exercised in an accountable way which will include placing on file written justification for the exercise of powers in a particular way.

## **18 Review procedure**

- 18.1 The Code of Practice will be reviewed 6 months after its adoption by the Council and thereafter every two years by the Standards Committee and at such time as any change in legislation or planning guidance requires.

## **19 Breaches of the Code by Members**

- 19.1 Although the Code is concerned with the conduct of individual Councillors, and with the responsibility of Councillors for their own conduct, each Councillor also has a responsibility to uphold the highest ethical standards in the Council as a whole.
- 19.2 The Standards Committee believes that the reputation of local government is enhanced if conduct issues can be resolved quickly at a local level keeping to a minimum the damage to personal relationships that may be caused. It therefore recommends the following steps if there is an allegation of breach of the Code of Practice
- (1) speak to another Councillor about your concern
  - (2) seek advice from the Chief Executive or the Monitoring Officer who will advise you on the best way forward or who may take the matter up with the Councillor and the Councillor's Group Leader

- (3) report the matter to the Monitoring Officer who will determine the action to be taken in accordance with the agreed procedure for dealing with such issues

## APPENDIX 1

**Code of practice for planning matters****Members' protocol for dealing with planning matters**

Part 5 of the constitution sets out the protocol for Members dealing with Council matters including the relationship with officers. Planning issues and, in particular, development proposals often raise concern locally. As such, there is a need for Members to have direct contact with case officers, to obtain the factual information quickly. This protocol sets out the parameters for such contact.

**Planning and related applications:**

Contact with the case officer should be limited to requests for factual information with regard to development proposals. Advice may also be sought as to the progress of the application and the nature of consultation responses received.

Whilst Members are encouraged to discuss their concern with the case officer, no pressure should be put on that officer to make a particular recommendation.

If Members have concerns as to the information received or advice given by the case officer, then the matter should be discussed in the first instance with the Head of Planning and, if unresolved, then the Chief Executive.

Given the nature of the job, officers are often out on site. Members are therefore advised to telephone to make an appointment before calling in.

**Planning Enforcement:**

It is the Government's view that the integrity of the development management process depends on the local planning authority's readiness to take effective enforcement action when it is essential and to this end, the Government has provided a range of powers for enforcement.

The circumstances surrounding a breach of planning control vary considerably and a course of action needs to be carefully planned before it is embarked upon.

In assessing the need for enforcement action, Members should bear in mind that it is not an offence to carry out development without first obtaining planning permission. Whilst this is clearly unsatisfactory, there are occasions, particularly in the case of householder development, where works have been undertaken under the impression that they are "permitted development". Before initiating formal action therefore, there is always a need to understand the background to any case and to provide the opportunity for the owner or occupier to remedy any breaches voluntarily.

The Council's Enforcement Strategy sets out how the authority will respond to breaches of planning and related controls in its area; how it will monitor the implementation of permissions; investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

Any enforcement investigation has the potential to become a criminal matter. As such, any action taken during the course of investigations must comply with the relevant legislation or the Council could be prevented from prosecuting the case by default. In order to protect the Council's position when dealing with enforcement matters, Members are strongly advised to:

- Ensure that at no time does any action on their part prejudice the Council's position.
- Not to enter onto land without the permission of the landowner.
- Restrict any enquiries relating to specific issues to matters of fact or general progress of the case.
- Acknowledge that enforcement cases are dealt with in accordance with the adopted strategy.

The role of the planning investigation officer is to establish the facts and ascertain whether any matter brought to their attention is actionable under planning legislation. The decision regarding whether action is taken is determined either by committee or by the Head of Planning using his delegated powers.

If Members are unhappy as to the way a case is progressing, the matter should be discussed with the Head of Planning in the first instance and, if unresolved, then the Chief Executive.

**APPENDIX 2****Code of practice for planning matters****Publicity arrangements for planning applications and other proposals**

Broadland District Council is committed to enabling and encouraging involvement in its decision making processes. It is particularly keen to involve you in the planning process by seeking your views on planning and other development applications.

There are statutory requirements around the publicity that has to be afforded to planning applications. The form publicity can take varies according to the type of application and the location; in certain circumstances it is set out by Government, but discretionary in other cases.

The Council publicises planning applications and other submissions widely in excess of the statutory requirements (see table at the end of this report for details).

**How does the Council advertise?**

- All applications are posted on the Council's website.
- Applications requiring advertisement will appear in a local newspaper.
- Where appropriate site notices are either displayed on the site which is the subject of the application or at the most convenient location near to the site which is accessible to the public.
- Individual neighbour notification in the form of a letter is usually addressed to the owner/occupier immediately adjacent to the application site.

**How long do I have to respond?**

In publicising planning applications and other proposals, a period of at least 21 days is given within which interested parties may respond.

**What if the application is amended?**

If the application is amended during the course of processing, further publicity may be given to the amendments. This is usually done by neighbour notification if the case officer considers there has been a change which would significantly alter the public's perception of the proposal or written interest has already been expressed. The period of response to the notification may vary in such circumstances, although a minimum period of 7 days is generally given. The Council will not determine the application until the stated publicity period has expired.

### Who can respond to an application?

Anyone or any organisation may make representations regarding a planning application, whether or not they have been personally notified.

### How should I respond?

You can respond in the form of a letter addressed to:

Head of Planning  
Broadland District Council  
Thorpe Lodge, 1 Yarmouth Road  
Norwich, NR7 ODU

You can also respond by electronic mail to [planning.administration@broadland.gov.uk](mailto:planning.administration@broadland.gov.uk) and you can post your comments on the Council's website by inserting the relevant application number at [www.broadland.gov.uk/plans](http://www.broadland.gov.uk/plans); viewing the details of the application and then selecting the "add comments" button at the bottom of the page.

### Some points to remember when writing your letter:

- Clearly identify the application to which you are responding by reference to the location and preferably application number (eg 20171345).
- Set out your comments in the form of an objection, offering support or raising no objection to the proposal.
- Ensure your letter or email arrives at Thorpe Lodge on or before the expiry date of the publicity period. If for some reason this is not possible, contact the case officer whose name is given in the letter, who may agree to extend the publicity period.

### What happens next?

All representations are taken into account, subject to them being received prior to the determination of the application. The representee will be informed of the Council's decision once the application has been determined. Correspondence is generally not entered into as a consequence of making representations on applications, as resources do not permit this. If specific information on a particular matter is required, this should be sought either in writing, by email or telephone. All letters of representation are retained on the application file which is open to public inspection and may be copied. Any matters of a confidential nature should be drawn to the Head of Planning's attention in writing. Comments made confidentially will not, however, be able to be taken into account in the determination of the planning application.

**Who determines applications?**

Approximately 5-10% of applications are determined by the Planning Committee. Any representations made on applications to be determined by the committee are summarised in the agenda report and a copy of the letter is available on file for Councillors' inspection prior to the meeting if they wish to see the letter in full. Any representations received after the committee report has been prepared and before 12 noon on the day before the meeting of the committee will be reported either on a supplementary schedule or verbally by the officer presenting the application to the committee. The committee generally meets on a Wednesday morning, every four weeks.

**If you comment on an application which is to be determined by the committee**

You will be notified of the committee date and provided with an opportunity to address the committee. You will, however, need to register your intention to speak at that time.

**Where and when can I see the applications?**

All applications may be seen at Thorpe Lodge and are available on the website. Some parish councils may also make their copies of applications available for you to view and you should make enquiries direct to the relevant parish council if this facility is available.

If you wish to discuss the application or have any queries please contact the case officer.

## Publicity arrangements for applications

	Website	Site notice	Site notice or neighbour / owner	Press advert	Parish/ town council	Ward Member
<b>Planning applications:</b>						
EIA development	Y	Y <sup>1</sup>		Y	Y	Y
Not in accordance with the Development Plan	Y	Y <sup>1</sup>		Y	Y	Y
Affecting a public right of way	Y	Y		Y	Y	y
Major development	Y		Y	Y	Y	Y
Affecting the setting of a Listed building or the character / appearance of a Conservation Area	Y	Y		Y	Y	Y
Other planning applications	Y		Y		Y	Y
<b>Listed Building applications:</b>	Y <sup>2</sup>	Y <sup>2</sup>		Y <sup>2</sup>	Y*	Y*
Vary or discharge conditions on Listed Building application	Y <sup>2</sup>	Y <sup>2</sup>		Y <sup>2</sup>	Y*	Y*
<b>Prior Notifications: Part 3</b>						
Class 1A (mixed use to resid)			Y			
Class J B1 to residential			Y			
Class K use as school or nursery			Y			
Class M agric. to flexible use			Y			
Class MA agric. to school/nursery			Y			
Class MB agric. to residential			Y			
<b>Prior Notifications: Part 6 &amp; 7 (agriculture and forestry)</b>		Y (A)				
<b>Prior Notifications: Part 24 (telecommunications)</b>			Y	Y <sup>3</sup>		
<b>Prior Notifications: Part 31 (demolition)</b>		Y (A)				

	Website	Site notice	Site notice or neighbour / owner	Press advert	Parish/ town council	Ward Member
<b>Advertisement applications</b>						
<b>Applications for works to TPO trees</b>						
<b>Notice of works to trees in Conservation Areas</b>						
<b>Hedgerow removal applications</b>					Y	Y

Y	Statutory requirement
Y (A)	Statutory requirement for applicant to display if Prior Notification required
Y <sup>1</sup>	Needs to stipulate on the site notice the reason for the advert.
Y <sup>2</sup>	Not necessary for internal works to Grade 2 unstarred buildings
Y <sup>3</sup>	If development is contrary to the Development Plan, affects a right of way or if site has area of more than 1ha
Y*	Only if Listed building application is submitted independently of related planning application

**For further information please phone the Development Management section on (01603) 431133 and ask for the case officer responsible for the application in which you have an interest.**

## APPENDIX 3

## Enforcement Call-In Procedure

