

Not in my back yard:
**Local people and the
planning process**

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Introduction to the 2023 edition

In 2014, the Local Government and Social Care Ombudsman published its first Focus Report about our investigations into complaints about planning and development.

In the years since, our role in the planning process remains the same. But it continues to be a topic about which we are regularly asked by local authorities, councillors and MPs to share more information from our investigations.

And we continue to receive many complaints on the subject. Often these are from people who disagree with a council's decision to grant planning permission, feel like their voices have not been heard, and hope we can overturn the decision.

This updated 2023 edition of the report includes new case studies from our investigations – now with links to the published decisions on our website. We have updated references to legislation, our approach to recommended remedies and added more detail on the types of complaints we are likely to investigate in detail.

This report aims to:

- > help local people understand more about the planning process and the impact they can have on planning decisions
- > help explain our role and powers in providing redress and supporting independent scrutiny of decisions
- > encourage greater transparency in the way councils reach decisions through sharing the lessons from our complaints.

The first section looks at the legal background for councils and the roles of the public, local councillors and the Ombudsman in the planning process.

In the year ending March 2023, authorities in England received more than 395,000 planning applications. In the same period, we decided 1,906 complaints and enquiries about planning and development. Of these, we investigated 438 in detail and found fault in 211 cases, meaning we upheld 48% of investigations.

The second section includes new personal stories from our complaints, which highlight some of the common faults we find and the significant impact of poor planning decisions. These show issues such as:

- > failure to check the validity of an application
- > errors in advertising applications
- > not considering objections
- > not explaining reasons for decisions properly
- > failure to consider the impact on neighbouring properties
- > allegations of bias
- > failure to take enforcement action.

The third and final part of the report shares learning from complaints to help support better service delivery. This includes a checklist of good practice based on our experiences of good administration from councils.

We also understand the importance of the role of councillors who have a democratic mandate to scrutinise local public services. We provide a list of questions elected members may wish to consider asking, to assure themselves their local planning services are effective and transparent.

Legal Background

Town and Country Planning Act 1990 & Local Plans

Planning applications can take many different forms. The most common are applications for new developments or extensions to existing buildings.

Most councils have a Local Development Plan which sets out planning policies within their area. Policies can relate to issues such as the location of new employment uses and how a council will deal with a planning application for development in the 'Green Belt'. The Local Plan will also identify land that may be suitable for housing or industrial development. This is linked to council and government targets for house building and employment.

Councils must consider planning applications against policies in their Local Development Plan and other material planning considerations, such as the impact on residential amenity. However, councils can also take account of emerging policies being considered at local and national level and must take account of government policy such as the [National Planning Policy Framework](#).

The Localism Act 2014 introduced the neighbourhood planning system. This gives communities the opportunity to shape development and growth in their area. Once approved, a Neighbourhood Plan holds the same legal status as a Local Plan.

Publicising planning applications

The process councils follow to publicise planning applications is often referred to as a 'consultation'. However, councils are not under any duty to 'consult' local people. The law says councils must publicise planning applications in the local area to let people know how to make comments. Councils must consider any comments they receive.

The type of publicity required depends on the type of application. Some council policies may require more publicity than the law requires. Councils will generally publicise applications using one or more of the following:

- > writing to people in neighbouring properties
- > putting up a notice near the development site
- > putting an advert in a local newspaper.

Councils are not required to write to people in neighbouring properties in every case unless their own policies require them to do so. Local consultation policy can be found in the council's Statement of Community Involvement.

Role of local people

By making comments on planning applications people can feel they are contributing to decisions being made in their area. However, councils are not able to give weight to some of the common issues raised by objectors, such as the impact on their private rights. There could also be tensions between the need for more development in an area and the concerns of local people about the impact this will have on their lives. The council's role is to balance these competing issues when making decisions on applications.

Councils can only take account of 'material planning considerations'. [Government Guidance](#) and the [Royal Town Planning Institute](#) have produced information about this. The [National Planning Policy Framework](#) sets out the government's planning policies and explains what councils should consider when drawing up local plans and reaching decisions on applications.

Some of the most common objections raised in complaints to us are not material planning considerations. These include:

- > loss of property value
- > private disputes between neighbours
- > loss of a view

However, we also receive many complaints from local people who have raised material planning considerations with their local council. The most common of these include:

- > overshadowing
- > loss of privacy
- > traffic and parking
- > impact on trees

We deal with lots of people who organise campaigns against controversial developments in their area. Often this results in councils receiving petitions and hundreds of copies of the same objection letter. However, the strength or volume of local opposition is not a material planning

consideration. The voices of local people are generally more effective if their objections are focussed on issues that can be taken into account.

We regularly hear from objectors who say officers have warned councillors on a planning committee that the council will incur costs if a decision to refuse planning permission is overturned by the Planning Inspectorate. This is a relevant consideration for officers and councillors, as councils are under increasing financial pressure and defending a decision which is likely to be overturned at appeal is not a good use of public money.

Planning decisions are usually taken in full view of the public. Local people have a right to look at applications and plans. Local people often attend council planning committee meetings to see certain decisions being made. Increasingly, councils make video recordings of these meetings available on their websites.

Role of the Ombudsman



We make decisions on unresolved complaints about councils and care providers. Our service is free to use, and we are completely independent. In terms of planning, we are often the only way for people who object to seek a remedy. This is because objectors have no right of appeal – besides asking us for an independent review of the decision, the only other option is to take action in court, but this is often costly.

Some people misunderstand our role and expect us to act as an appeal body and try to persuade us the council's judgement is wrong. We are a review body. We cannot make planning judgements, but instead we check the decision-making process for administrative fault in the way the decisions are made.

Planning can be an emotive issue and sometimes local people are frustrated at development in their area even if they are not directly affected by it. However, we make decisions on individual complaints about fault causing injustice. This means we are unlikely to investigate complaints from objectors who are not directly affected by a development, unless we consider there is wider public interest in doing so.

We consider whether there is any fault in the way the council reached a decision and whether it is likely it would have reached a different decision if there was no fault. We cannot question whether a council's decision is right or wrong just because

someone disagrees with it. We are a review, not an appeal, body.

There are some planning complaints that we cannot or will not investigate. These include complaints:

- > where the key issue has been considered by the Planning Inspectorate
- > where the complainant is not a member of the public – for example, we do not investigate complaints from councillors on behalf of residents
- > about planning decisions that were made more than 12 months ago and the complainant was aware of the decision at the time
- > where the complainant has not experienced significant injustice. This might include situations where the complainant does not live near the development they are complaining about – for example, a landlord
- > where we are unlikely to find the council at fault

Our investigations can subject planning decisions to independent scrutiny and hold them up to account if there is fault in the decision-making process. If we do not find fault, they can provide assurance that decisions were made in a proper and transparent manner.

Role of local councillors

Local councillors have a major role in planning decisions made in their area. Every council has a constitution which includes a delegation scheme explaining who has the authority to make certain decisions. Decisions about small developments are usually made by the council's planning officers. Decisions about large scale or controversial developments are generally made by the council's planning committee.

Most council constitutions have delegation schemes which allow local councillors to 'call in' applications. This means they can ask the planning committee to consider an application that would usually be decided by an officer. When this happens, applications which might be controversial or impact on sensitive local issues can be decided in a more open forum.

Local councillors should be aware of the 'call in' procedure in their area and how to use it.

Each council has a planning committee made up of local councillors. The planning committee consists of councillors from different political parties within the council and will generally reflect the political make-up of the council as a whole. Decisions on planning applications should be administrative rather than political decisions, which means they must be made in line with planning policy and the law, and not based on political affiliations or public pressure.

Therefore, it is important that local councillors undergo training to understand planning law and their role in making decisions.

Most decisions are made by officers. However, where a committee makes a decision, councillors will usually consider a report written by a planning case officer. The report will set out the officer's recommendations and reasons along with details of any relevant policies, guidance and legislation. The officer must make a recommendation whether planning permission should be approved, approved with conditions, or refused.

Generally, the report is sufficient in explaining the committee's decision if it votes in favour of the officer's recommendations. Where a committee

votes against an officer's recommendation it must provide its reasons for granting or refusing planning permission and those reasons must take account of material planning considerations.

Where a committee or an officer fails to give adequate reasons or explain its decision, the council can be left exposed to costs defending a decision that ultimately may not be defensible.

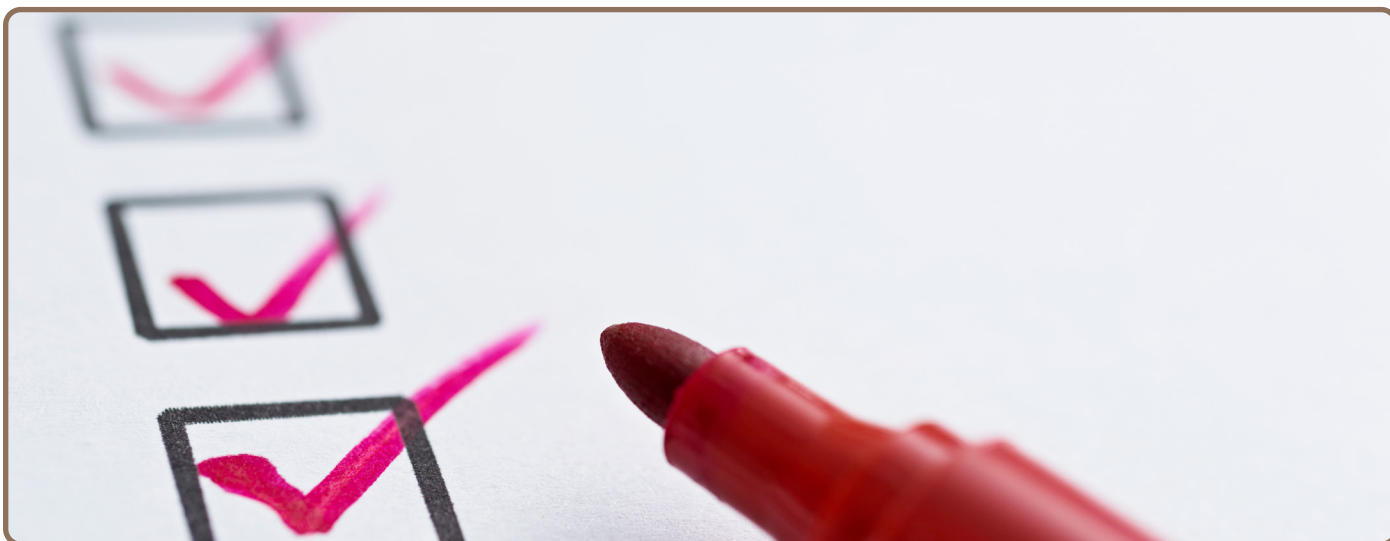
Council officers who grant permission under delegated powers are required to produce a written record of that decision along with the background papers they relied on. Councils must make the record available at their offices and on their websites. These written decision records must be kept for a period of six years and any background documents must be kept for four years. This only applies to decisions made by officers with delegated powers but there is no reason why councils should not extend this to decisions made by committee.

Councils will often ask councillors on town and parish councils for their view on planning applications.

This can help give a local voice on issues arising from proposed developments. Town and parish councils may recommend that planning permission is granted or refused. However, town or parish council views are given no more or less weight than any other comments a council receives.

The Local Government Association has produced [guidance](#) for councillors and officers, available on its website, which explores the roles of officers and councillors in the planning process and more detail on many of the issues covered in this report.

Putting things right



How we remedy injustice

Fault in the planning process can have a significant impact on a person's home life and can lead us to recommending that councils pay financial remedies if decisions are not taken properly.

When there is fault in the planning process, complainants often ask for the decision to be overturned. Only the High Court can quash a decision. In very exceptional circumstances, we can only recommend asking a council to consider making a revocation order. The injustice we find can usually be remedied by a council paying money, taking practical action to correct things and improving its services.

Where development has not yet been completed, the council may be able to informally negotiate an amendment to the permission with the developer to prevent injustice to the complainant. Examples include:

- > obscured glazing in overlooking windows
- > fast-growing or established shrubs or trees in a planting scheme
- > a wall, fence or trellis along a boundary

It may also be possible to reduce the impact by taking action such as:

- > redesigning the complainant's garde
- > erecting an acoustic barrier
- > installing double glazing for parts of a house affected by noise

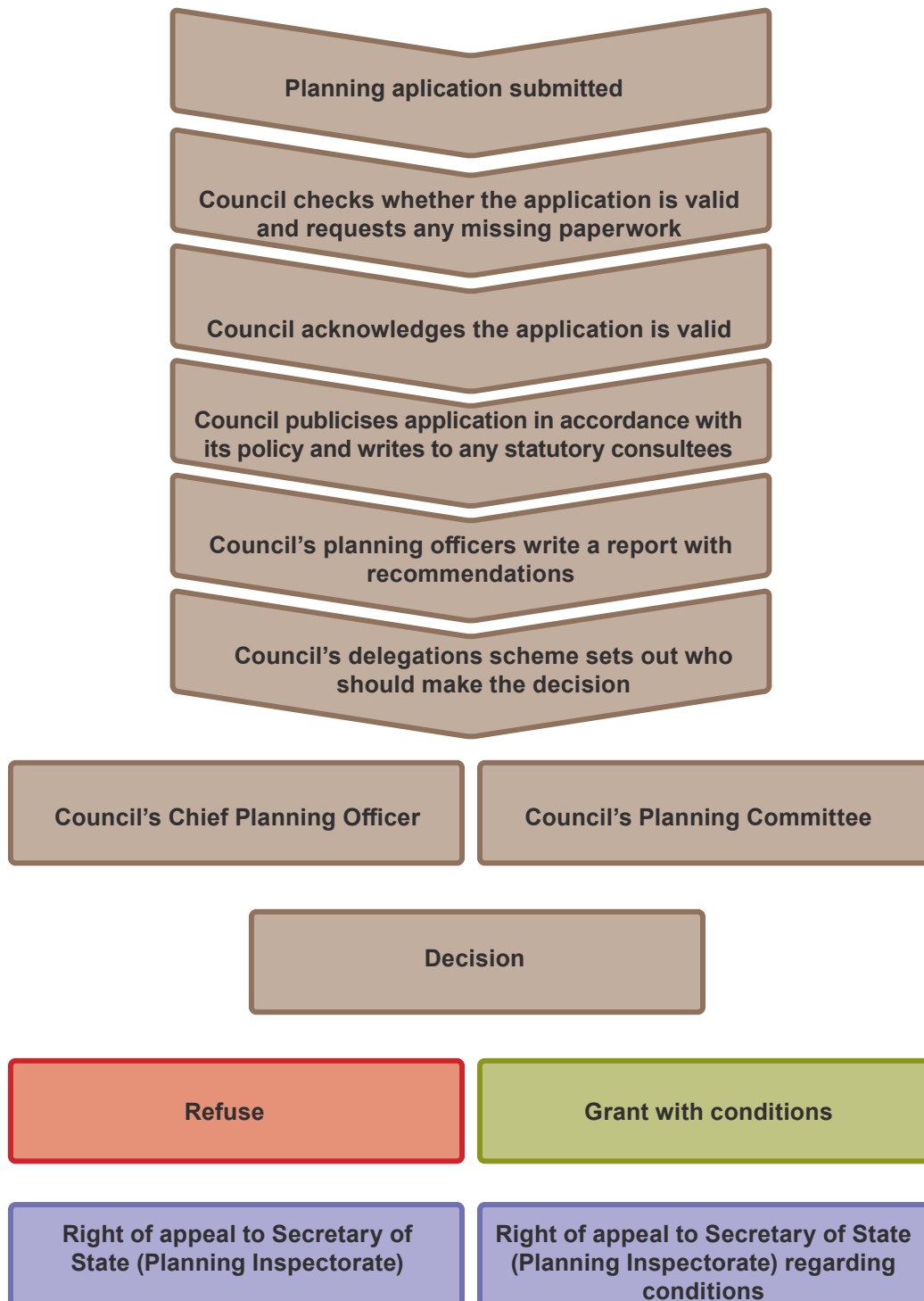
If it is not possible to reduce the effects of a development, and it is unlikely the planning application would have been approved in its current form had there been no fault, we may recommend the council pays the complainant for the loss of amenity or the loss of value to their property.

Payments for loss of amenity usually range between £1,000 and £5,000 depending on the circumstances and severity of the loss. In rare cases we may ask the council to assess the loss of value to the complainant's property. A 'before and after' valuation may be needed to determine this. We usually recommend this is carried out by the District Valuer based on what the value the complainant's property would have been had there been no fault.

If the loss of amenity is temporary, we may recommend a payment in the range of £100 to £500 a month, depending on the circumstances, until a permanent solution is found.

Common issues and learning points

Summary of the planning process



Note: Only the applicant has a right of appeal

Most of the planning complaints we receive are about councils' decisions on planning applications. A smaller number of complaints are about planning enforcement.

In this section we set out some of the more common faults we come across, as well as our views on how they might be remedied. Before discussing enforcement complaints, our examples will follow the planning process, from validation to publicity, and consideration of the application to the planning decision.

Failure to check whether a planning application is valid

Planning applicants must provide certain information and forms to a council in order for their planning application to be valid. This includes applications to discharge planning conditions attached to a planning permission.

There may be fault if a council reaches a decision on an application where the applicant has not provided all the information required. However, we will only recommend the council takes action if the objector is disadvantaged by the fault.



Terry's story

Case reference: [21 001 597](#)

Terry complained the council had decided an application even though it was not valid, and the drawings had omissions and inaccuracies which did not follow the council's published guidance.

The council had received a planning application for a development which had already started and the applicant was not the owner of the land. The applicant provided a certificate which should only be used by the owner of the land. Following Terry's comments, the applicant told the council he could provide the correct certificate, but the council determined the application before this was received.

We found fault in how the council dealt with the application as it failed to secure the new certificate before deciding the application. However, we said this did not cause Terry significant personal injustice because the ownership issue did not prevent him from making representations about the development. It was for the courts to decide whether a planning application should be quashed. In this case, no one had applied to do so.

The applicant also included plans and drawings of the development, which showed the existing site conditions and the proposed plans. The council's guidance said plans should say 'retrospective' for commenced developments and they should set out how existing and proposed site conditions should be shown.

We found the plans and drawing failed to adhere to some of the council's guidance but met legal requirements. The council was therefore entitled to reach its view that it had enough information to assess the development and accept the application.

The council agreed to apologise to Terry for the distress caused by its failure to follow due process. When considering Terry's initial complaint, the council had already identified staff training as a way to avoid similar problems recurring.



Failure to publicise an application

It is rare to find a council has not, in some way, publicised a planning application in its area. However, we have criticised councils for not publicising applications in line with the law or their own policies.

When this happens, it can mean objectors lose the opportunity to comment on an application and have those comments considered by the council. We will consider what objectors would have said and whether it is likely to have had an impact on the council's decision.



Susan's story

Case reference: [21 010 361](#)

Susan complained the council failed to tell her about her neighbour's planning application. She had therefore been unable to raise any objections and comments.

The council approved her neighbour's application, and Susan first found out when building works started. She complained the council had failed to consider Local Development Plan policies, heritage issues, and the development impact on her amenity due to it overlooking her home.

The council's policy said it will put site notices up or send notification letters to neighbouring properties of a development. It had no records it had done either in this case, and agreed it was at fault.

Due to Susan's representations, the council reviewed its planning decision and found it was unlikely the development would have been approved. It accepted she had experienced an impact on her residential amenity. However, the council decided it would not be appropriate to use its discretionary power to revoke or modify the planning permission.

Our investigation found the council had properly considered the planning issues relating to its decision, and so this was a decision it was entitled to make.

The council agreed to apologise to Susan and pay £3,500 to acknowledge the serious distress and impact on her amenity its faults caused. The payment was intended to help Susan adopt measures to reduce the impact of the development.

Conduct of site visits

Planning officers usually visit sites before making their decisions. There is no legal requirement for a site visit to be carried out, but councils may have policies about how they should be conducted.

Site visits can form an important part of the planning process as they allow officers and councillors a chance to visualise how a development might impact on the surrounding area, which may not be available from photographs, online maps, or local knowledge.

Where site visits are carried out, officers usually make notes and sometimes take photographs to record what they found. This can help them to remember what they saw when they are in the office considering the application.



Tariq's story

Case reference: [20 012 190](#)

Tariq complained the council had approved his neighbour's planning application for a two-storey side extension. The application referred to Tariq's home as a storage unit.

Tariq said he had not received any planning notifications and first became aware the council had approved the application when he spoke with his neighbour.

The council's planning officer did not do a site visit and was unaware of the development's proximity, and impact on loss of light, to Tariq's home. The council suggested he applied for planning permission for a new window to reduce the severity of the loss of light.

Tariq paid the planning application fee and was granted planning permission for the new window. However, he was unhappy with the council's role in the matter, and the costs he had incurred.

We found fault in the council's handling of the planning application. While it was not required to conduct a site visit, it should have been aware of Tariq's home and considered the development's impact on his amenity before it approved the application.

The council agreed to apologise and pay Tariq a contribution of £1,000 towards the costs he incurred.

Failure to consider objections and evidence

Councils may receive a huge volume of objections and comments to a single planning application, or only a single letter from a concerned neighbour. But whatever the amount, it is important that the material planning considerations raised and taken into account in reaching a decision, are recorded and addressed. Setting them out in the report allows objectors to see whether their voice has been heard and can help local people understand why a council has reached its decision.

Councils can also consult different bodies such as the Environment Agency, as well as other council departments. We may consider whether any fault with information provided by these other bodies made any difference to the outcome.



Stuart's story

Case reference: [21 003 711](#)

Stuart's neighbour applied for planning permission for a two-storey front and side extension. The council sent notification letters to neighbouring properties and Stuart made objections to the proposal.

The case officer's report said objections had been considered but he found the development would not cause harm in terms of outlook, loss of privacy or overshadowing of Stuart's property. The council approved the development.

Stuart complained the council had failed to properly consider his objections and the evidence available before it made its decision. He said this was evident as the case officer had failed to understand the layout of his home and the impact the development would have on his amenity.

Our investigation found the council at fault. Stuart's objections and evidence were clear and showed his neighbour's development would directly impact on habitable rooms in his home but there was no evidence this had been considered. This would have been apparent to the case officer if Stuart's representations had been properly considered.

The council accepted it had incorrectly assessed the development's impact on Stuart's home and it would not have approved the development in its current form. It offered Stuart a goodwill payment.

We found the council's offer was not enough. The council agreed to our recommendation to pay Stuart £4,500 to remedy the loss of amenity he had experienced, and an additional symbolic amount for the time and trouble to bring his complaint.



Failure to consider the impact of a development on neighbouring properties

Objections from local people, and town and parish councils, can help councils to identify specific local issues that may not be apparent from plans submitted by a developer. However, councils must still consider the impact of development

on neighbouring properties even if they do not receive any objections. Councils not only have a duty to protect existing residents but also anyone who might move to a property in the future.



Leo's story

Case reference: [21 000 108](#)

Leo complained the council failed to consider the impact its planning decision had on his family life and enjoyment of his home, which he rented.

The council considered a planning application to turn a disused bank building into a gym. Leo and his family lived above the business premises; however, the planning document and the officer's report did not refer to Leo's property at all.

The council put up a site notice and consulted with its Environmental Protection Team, which did not object. The council approved the application without any conditions. When the gym opened, Leo complained to the council as he was experiencing noise disturbance from 5.45am each day.

During our investigation, the council's Environmental Protection Team told us it was not aware of Leo's flat above the business, nor was it clear what type of business would be developed. If it had known, it would have recommended conditions for noise containment measures and restrictions on hours of operation.

We found the council at fault for failing to consider the development's impact on the amenity of all neighbouring properties, including Leo's.

We recommended the council apologise and pay Leo a symbolic amount to recognise the distress its faults caused. It also agreed to complete a comprehensive noise assessment to establish the impact the gym was having on Leo and his family. It should then put in place whatever actions it now could to reduce any identified noise to acceptable levels.



Delegation

We often receive complaints from local people who feel a decision should have been made by the planning committee rather than officers. It is important that local councillors are aware of the 'call in' procedure and that officers are aware of limits on their decision making powers.

Local Schemes of Delegation will set out in what circumstances an application can be called in to committee and how it will be decided. Where we find fault, we must determine what difference, if any, it would have made to the outcome.



Sophia's story

Case reference: [19 020 588](#)

Sophia complained the council did not act in line with its scheme of delegation and did not refer a planning application to the planning committee for determination as it should have.

The council's scheme of delegation says applications will be referred to the planning committee if the development is over 0.25 hectares or outside the settlement boundary. Due to the size and location of the development, the application should have been decided by the planning committee.

Our investigation decided the council was at fault, but the evidence showed the case officer considered Sophia's objections and addressed her concerns in their report. Because of this, we thought it was likely the planning decision would have been the same had the application gone to the planning committee.

The council agreed to pay Sophia a symbolic amount for the distress, uncertainty and lost opportunity, as she was not able to put her objections forward to the committee. The council also agreed to remind officers and members of its scheme of delegation.

Failure to explain the reasons for a decision

The law says councils must give reasons for their decisions. This not only helps local people understand why decisions have been made but helps developers and builders understand what is required of them. It can also help future planners understand why decisions were made or conditions imposed, if they are considering taking enforcement action.

It is also important that councils reach decisions that can be defended in the face of an appeal to the Planning Inspector.



Lilly's story

Case reference: [20 005 120](#)

Lilly complained to the council about how it dealt with her neighbour's planning application. Lilly said the council failed to properly explain how the application had overcome the reasons for refusing previous applications for the site. Lilly said the extension has a significant impact on her home.

The planning officer recommended the application be refused due to the overbearing impact on Lilly's home. However, permission was granted by the council's planning committee against the officer's advice.

Our investigation said the planning committee did not explain why it reached a different conclusion to the planning officer. The council's failure to

provide clear reasons for its decision was fault and called into question the planning decision.

However, the committee was entitled to reach a different conclusion to the planning officer and members were aware of the material planning matters before deciding to grant permission. Therefore, we said it was likely the decision to grant planning permission would be the same had there been no fault and had the committee properly explained its reasons.

The council agreed to apologise to Lilly and pay her £500 to recognise her distress and time and trouble. The council also agreed to provide training to members on how to properly explain its decisions.

Bias

Allegations of bias are common in the complaints we receive about how councils have dealt with planning applications. However, it is rare for us to find that officers or councillors have used their position improperly to influence a planning decision.

It is important that officers and councillors are aware of what the law and their council's constitution say about personal interests. This will protect against allegations of bias and give local people confidence in decisions the council makes.



Ahmir's story

Case reference: [21 015 578](#)

Ahmir contacted the council to complain his neighbour was operating a business from their home without permission. Ahmir said the commercial activities caused noise and disturbance. The council started an enforcement investigation and said the evidence showed the commercial use of the site had been ongoing for about 20 years and was therefore immune from enforcement action.

As Ahmir remained unhappy, the council agreed to keep the case open and asked him for further evidence. It also asked Ahmir's neighbour for additional information, this included a request to provide evidence to show there had been no significant change to the business over the last 10 years.

Following this, the council decided not to take any further action. It said while there had been a material change in use of the site to include business activity, this had been continuous for more than 10 years and was therefore immune from enforcement action.

Ahmir said the council showed bias by working with his neighbour to find evidence to defend their position and support its predetermined decision not to take enforcement action.

Our investigation found no evidence of bias and said the council was not at fault for asking Ahmir's neighbour for further information. We recognised why Ahmir may have viewed the council's requests as showing bias and predetermination. So we suggested the council may wish to keep in mind how interested parties may perceive such actions when carrying out future enforcement investigations.

Failure to take enforcement action and delay

Sometimes development takes place without planning permission or planning permission that has been granted is breached. Although councils have powers to stop development, they do not have to take action in every case. Government guidance says “enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control”. (National Planning Policy Framework, 2020, paragraph 59)

We expect councils to carry out proper investigations into complaints and consider the range of enforcement options open to them. Failure to comply with an enforcement notice is a criminal offence and some councils have recovered significant sums of money

using the Proceeds of Crime Act 2002. This deprives offenders of financial benefit gained from committing the offence and a proportion of the money recovered goes directly to the council. Other options open to councils include ‘under enforcing’ which may give permission for an unauthorised development but control the parts of it that have an impact on neighbouring properties. Even if a council decides not to take enforcement action, or delay action, we would expect it to record its reasons for doing so and explain its decision to any complainants. As with other delegated decisions that grant permission, a licence, or affect the right of an individual, the council should publish reasons for its decision along with any background papers on its website.



James’s story

Case reference: [21 016 993](#)

The council granted James’ neighbour planning permission to develop their home. The development included two balconies. James complained to the council that the balconies were not being built in line with the approved plans. James said they were not the correct shape and did not include privacy screens. James said his neighbour would have direct views into his property.

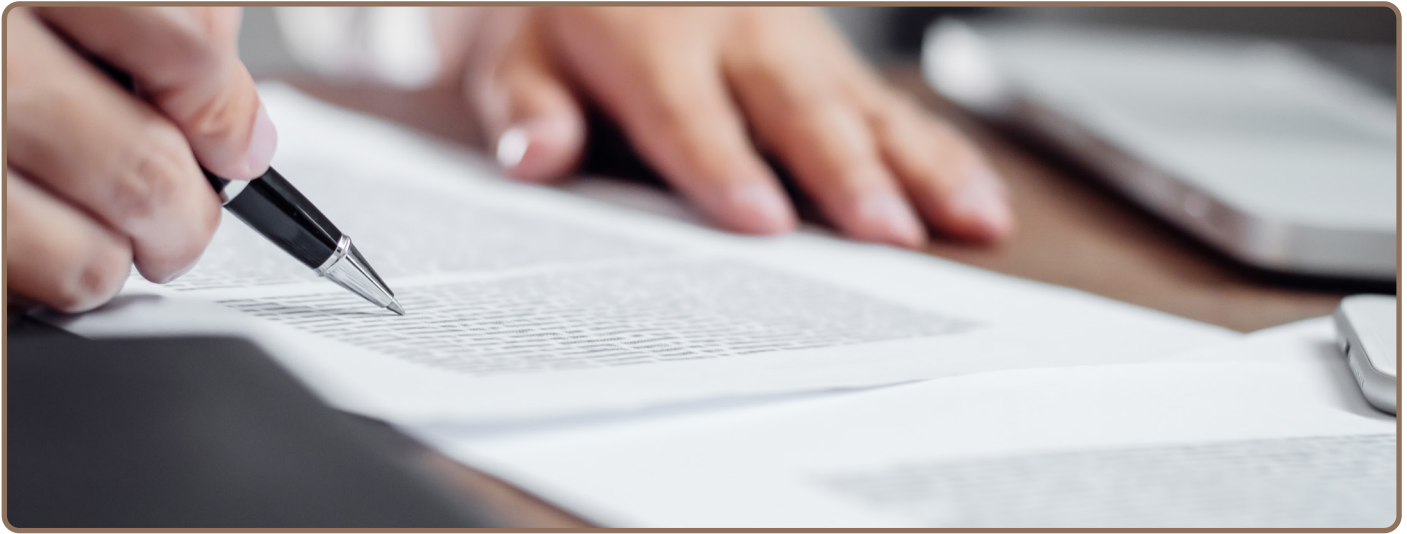
The council agreed there had been a planning breach and told James’ neighbour to make a non-material amendment application stipulating screens and bars on the balconies to protect James’ privacy. The council granted planning permission and said the privacy screens should be installed within three months.

After 10 months James contacted the council again as the privacy screens had not been installed. He said the delay was having a significant impact on his privacy. The council did not respond to James’ concerns, and he had to contact it many times before he received a response.

Our investigation found the council was not at fault for how it dealt with James’ initial concerns about the planning breach. We also said we would not expect the council to monitor the development after it granted permission for the non-material amendment.

However, we did find fault with how the council dealt with James’ concerns about the second planning breach. We said the council’s delay caused James to suffer a loss of privacy for around 14 months longer than he should have. We also said the council failed to properly communicate with James in line with its enforcement policy and did not respond to his complaint as it should have.

The council agreed to apologise to James, pay him £1,000 to recognise his loss of privacy and pay a symbolic amount for his time and trouble.



Failure to consider own policies and procedures

Councils should follow their own policies unless they have good reasons not to. Even though the council is a planning authority, it still needs planning permission for its own developments. These applications are usually dealt with by

planning committees to ensure the decision making process is open to public scrutiny. Although a council cannot take legal action against itself, we expect it to apply the same standards it requires of other developers.



Russell's story

Case reference: [22 005 197](#)

Russell complained the council failed to comply with planning conditions that applied to the construction of a new leisure centre near his home. The council, as local planning authority, granted planning permission for the development. It was also the applicant.

The planning permission was subject to conditions. One of which said the developer must submit a Construction Management Plan (CMP) and adhere to it during the construction works. The CMP included restrictions on the use of the site entrance and working hours. The plan also said the developer must monitor the condition of the public road near the site and implement measures to reduce noise and control dust.

Russell complained the CMP was not being complied with. He said the wrong site entrance was being used and there was mud from the development site on the public road and

pavement. Russell said that dust from the site was not being controlled and work was being carried out outside the permitted hours. Russell also complained his home had been damaged by spray painting at the development site.

Our investigation found the council considered if there were grounds to take any formal action in relation to the requirements of the CMP, and it took appropriate action to address Russell's concerns where necessary. However, the council was at fault for not following up with Russell in relation to possible damage to his home caused by the spray paint. We recommended the council contact Russell to assess if the paint spray affected his house and arrange for any damage to be rectified. The council agreed to our recommendation.

Getting things right

Drawing on our experience, we have identified a number of specific recommendations based on examples of good practice in councils.

> Photograph site notices

There is no legal requirement for a council to provide photographic evidence that it has put up a site notice, but taking a photograph and keeping a record on file can help councils demonstrate that they have fulfilled the publicity requirements.

> Take care when preparing neighbour notification letters

Notification letters are the most direct way of alerting neighbouring properties to nearby planning applications. Some councils rely on computer systems to produce these letters. When this happens, extra care should be taken to ensure every property that is entitled to a letter, gets one.

> Keep a clear record of site visits

A good record of a site visit, normally with photographs, can help officers recall what they saw when they are in the office making their decisions. It can also help others to understand what they considered and why they reached their conclusions about the development.

> Use the officer report to summarise comments

Councils need to show they have taken account of comments from residents and other consultees. Summarising comments and including these in their reports can help show how the public has been listened to. Some councils separate these into material and non-material considerations which can help local people better understand the process and how their objections have been considered.

> Make officer reports easy to find on the council's website

Councils must produce a written record of decisions made by officers under delegated powers and make it available to the public for six years.

Councils must also keep background material for four years in addition to keeping information as part of the statutory planning register. Case Officer reports can help local people understand the reasons why a council has reached its decision. These are generally available online and many councils include them within the online planning file. However, when the decision was made by committee, some councils only include the reports with committee papers which can be hard to find. It is good practice to also to save a copy of the Case Officer's report with other documents on the council's planning portal or website.

Some councils have begun to attach case officer reports to the 'informative' section at the end of decision notices. This can be helpful, but councils should still ensure they publish enough information to show the main planning issues have been properly considered.

> Maintain a good understanding of the council's constitution and code of conduct

A council's constitution and its delegation scheme will set out which decisions should be made by committee, and which can be made by officers. Constitutions can change and it is important officers understand the extent and limits of their powers. Officers and councillors should also be aware of the relevant code of conduct to protect themselves against allegations of bias. Councils should also make sure that other policy documents, such as their Statement of Community Involvement, are consistent with their constitutions.

> Develop a policy for dealing with amendments to planning applications and decisions

In some circumstances minor amendments to applications and decisions can be made without the need for any publicity. Each council can decide what constitutes a minor amendment and what constitutes a major amendment. Major amendments might require further publicity or a new application. By having a policy explaining how different amendments will be dealt with councils will make consistent decisions and local people can understand how amendments are considered.

However, as well as considering what impact an amendment will have, the council must also consider whether any third party might also want the opportunity to comment.

> Develop an enforcement plan

Government guidance says councils should consider publishing a local enforcement plan to “manage enforcement proactively, in a way that is appropriate to their area.” Plans should set out how councils will investigate alleged cases of unauthorised development, the circumstances where they might take action, and the enforcement options they will consider. This will help officers make consistent decisions and understand the legal tools available to them. It will also help local people understand what to expect when they make a complaint. The enforcement plan should be reviewed and updated on a regular basis.

Encouraging local accountability – questions for scrutiny

We want to share learning from complaints with locally elected councillors who have a democratic mandate to scrutinise the way councils carry out their functions and can hold them to account.

We suggest some key questions elected members can ask officers to ensure their services receive effective scrutiny and are accountable to local people.

- > **Does the council conform with our good practice suggestions in this report?**
- > **What is the council's target for building new homes and is it likely to achieve this?**
Failure to provide new homes can have a significant effect on the local economy and housing market.
- > **What type of applications are currently decided by officers and should this be reviewed?**
- > **How does the "call in" procedure work and how often is it used?**
- > **How many of the council's decisions are overturned by the Planning Inspectorate?**
- > **How many complaints does the council receive about decisions on planning applications, what are the outcomes and how has the council used them to improve its services?**

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