

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

**Focus report: learning lessons from complaints**

December 2014

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# Introduction

In the first year of the Local Government Ombudsman (LGO), 1974, we received more complaints about planning than any other area. Forty years later it is still one of the subjects most complained about. It is also one of the topics about which we are regularly asked by local authorities, councillors and MPs to share more information from our investigations.

The majority of complaints we receive about planning are from objectors who disagree with a council's decision to grant planning permission. More often than not they are unable to understand how the planning process works and how their objections have been considered. However, decision makers are limited in what they can consider and cannot take account of the strength of local opposition to a development. This can leave objectors feeling like their voices have not been heard, and can put councillors in a difficult position when they are asked to make decisions on controversial developments.

Therefore we have published this report to:

- > help local people understand more about the planning process and the impact they can have on planning decisions
- > help explain the role and powers of the LGO 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 of the report looks at the legal background for councils and the roles of the public, local councillors and the LGO in the planning process. Last year (2013/14) councils in England dealt with more than 400,000 planning applications. In the same period the LGO investigated 1631 complaints about the way councils had dealt with applications. We also saw a 14% rise in the number of complaints about unauthorised developments although still a smaller proportion of our total.

The middle section includes a number of personal stories from our complaints, which highlight some of the more common faults we find and the significant impact of poor planning decisions. These case studies 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 final part of the report covers how we feed back from complaints to help support better service delivery. This includes a check list 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.

# 1 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.

Councils must have a Local 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 normally determine planning applications in line with their Local Plan. 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](#).

## 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. Therefore it is important people pay attention to site notices put up in their local area and check local newspapers.

## Role of local people

By making comments on planning applications people can feel they are making a contribution to decisions being made in their area. However councils are not able to give weight to some of the common issues raised by objectors. 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.

Councils can only take account of 'material planning considerations'. The government and the Royal Town Planning Institute have produced [information](#) about this. The National Planning Policy Framework sets out the government's planning policies and also 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 considerations. These include:

- > loss of property value
- > private disputes between neighbours
- > loss of a view
- > impact of construction work.

However we also receive many complaints from local people who

# 1 Legal Background

have raised material 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 more likely to be heard 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 Inspector. This is a relevant consideration for officers and councillors, as councils are under increasing financial pressure and defending a decision which is not based on material planning considerations is not a good use of public money.

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

## Role of the Local Government Ombudsman

The LGO offers a free and independent adjudication on unresolved complaints about councils and care providers. In terms of planning, we are often the only realistic route of redress for people who object to a development or who are unhappy with a council's decision. Objectors have no right of appeal – they can bring their complaint to us for an independent decision or take action in court, but this is often costly.

Some people misunderstand our role as an appeal body. We investigate individual complaints about fault causing personal injustice. This means we will usually only investigate a planning complaint if it is about a development that directly affects the person making the complaint, unless there is a significant wider public interest. Planning can be an emotive issue and local people are often frustrated at development in their area even if they are not directly affected by it. However unless there is a significant wider public interest we are unlikely to investigate complaints from objectors who are not directly affected by a development.

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.

Every year councils in England deal with more than 400,000 planning applications however the number of complaints we receive accounts for less than 1% of these. However, the prominent coverage that planning receives in local and national media demonstrates the strength of feeling it can evoke, and would indicate that there are many more people who are unhappy with planning decisions being made in their area. It is therefore important that people understand the role of the Local Government Ombudsman. We can subject planning decisions to independent scrutiny and hold them up to account if something has gone wrong, or provide assurance that decisions were made in a proper and transparent manner.



# 1 Legal Background

## Role of local councillors

Local councillors have a major role to play 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 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. This means 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 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 are administrative rather than political decisions, which means they must be made in line with 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 (although they are not legally obliged to do so) a report written by officers. The report will set out the officer's reasons and any relevant policies, guidance and legislation and recommend whether planning permission should be given 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 it leaves the council open to costs defending a decision that ultimately may not be defensible.

The government has recently introduced new legislation which requires council officers who grant permission under delegated powers to produce a written record of that decision. 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 decision made by officers

with delegated powers however 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 unless the council has delegated decision making powers to the town or parish council their views are given no more or less weight than any other comments a council receives.

The Local Government Association has produced a [guidance document](#) for councillors and officers. The guidance explores the roles of officers and councillors in the planning process and how these can complement one another. It also provides more detailed guidance on many of the issues covered in this report.

# 2 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 to the LGO recommending that councils pay significant financial remedies. Councils can also incur legal costs in correcting their mistakes.

When there is fault in the planning process, complainants often ask for the decision to be overturned. We can only recommend a revocation order in very exceptional cases. This is because the injustice can usually be remedied by a council taking action at a significantly lower cost to the public purse. It is also true that most applicants are not to blame for council mistakes and it would be unfair to penalise them.

Where development has not yet been completed, the council may be able to informally negotiate an amendment to the permission with the developer so as to prevent injustice to the complainant, for example by including:

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

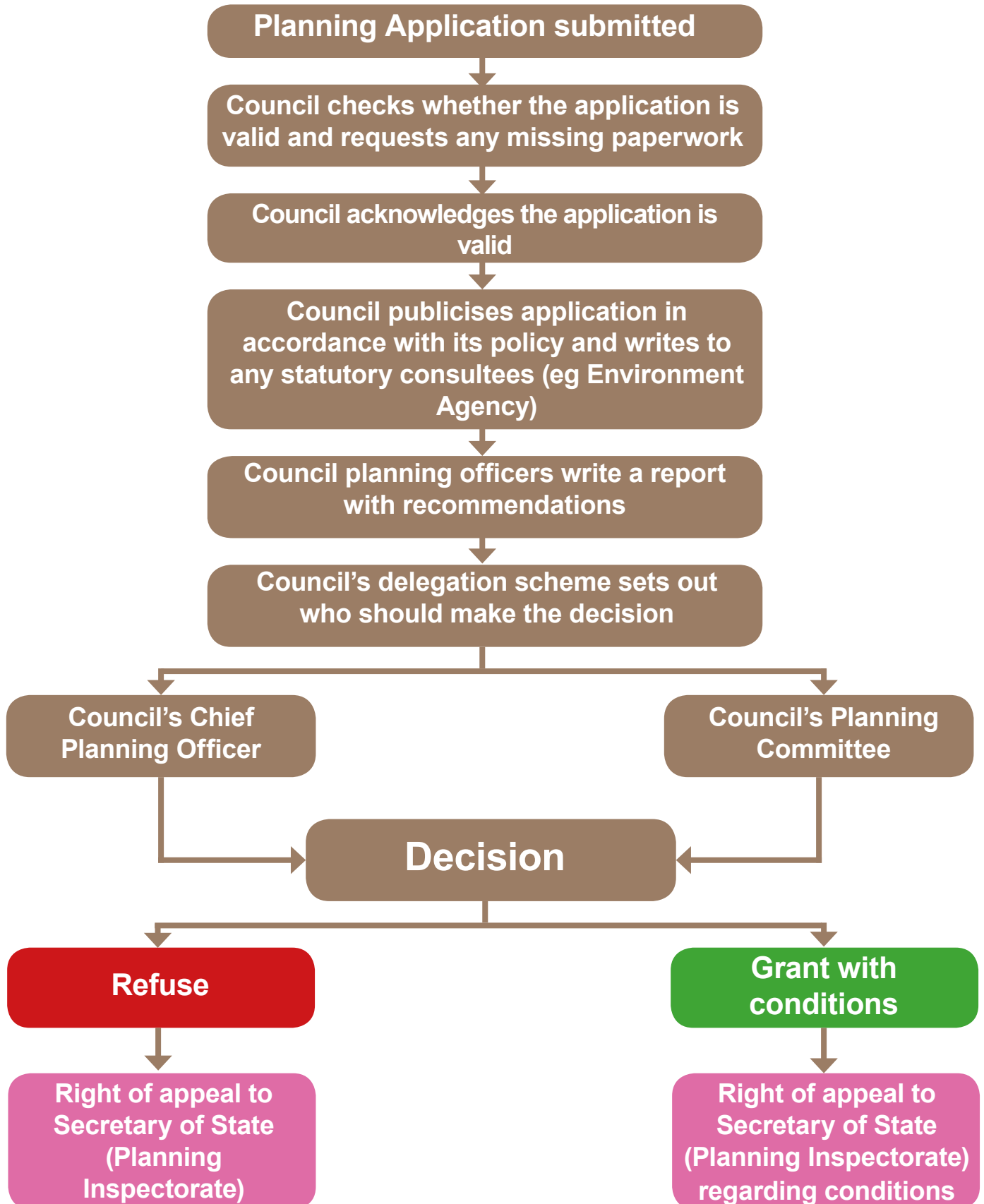
It may also be possible to reduce the impact by taking action such as:

- > redesigning the complainant's garden;
- > erecting an acoustic barrier; or
- > 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 that planning application would have been approved if there had been no fault, we may recommend the council pays the complainant the loss of value to their property. A 'before and after' valuation may be needed to determine this. We usually recommend this is carried out by the District Valuer.

### 3 Where things go wrong & common complaints

#### Summary of the planning process





## 3 Where things go wrong & common complaints

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.

There may be fault if a council reaches a decision on an application if 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

Terry complained that the council had made a decision on an application even though it was not valid. The council had received an application from a landowner for a Certificate of Lawful Established Use of Development (CLEUD). The landowner claimed his land had been used for parking and storing equipment and material linked to his quarry for more than 10 years, and a CLEUD would mean the council could not take enforcement action over the use.

On application plans the site must be outlined in red. However the applicant left one side open and described it as a 'notional boundary to be established'. Terry and several other people from the area alerted the council to this and a previous decision it had made on the same site where permission was refused. However when they went to look at the council's files they found evidence was missing. Despite Terry's concerns the council granted the CLEUD.

We found fault in how the council dealt with the application as it failed to identify that the application may not be valid as it did not set out the land the application related to. It also failed to consider evidence from local people.

We recommended the council take advice regarding legal options it might pursue if the application was not valid. We also recommended the council pay Terry and two other complainants £250 each in recognition of the significant time and trouble they had spent bringing the complaint.

## 3 Where things go wrong & common complaints

### 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.

This usually means 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

Susan complained the council failed to tell her about her neighbour's planning application. She said the neighbour's new house would have an overbearing impact on her home and that her kitchen and bedroom would be overlooked. Susan said she had not been able to raise any objections.

The council had no record of where or when site notices publicising the application had been put up. Its policy said it would write to people in neighbouring properties but it did not do this. We said this was fault. The council said it would review its procedures and look at taking photographs as evidence of all site notices in future.

The council failed to consider the impact windows in the new property would have on Susan's home. The plans showed that three windows would overlook Susan's kitchen and bedroom however the officer's report said there were no windows facing her house. This was fault. If Susan had been able to raise her objections the council would have identified the issue before it gave planning permission.

We found it was unlikely planning permission would have been refused. However it was likely that the council would have put conditions on the windows requiring they be obscurely glazed or that suitable fencing be put along the boundary. The council agreed to pay for fencing to be put along the boundary between the properties. The council apologised to Susan and in addition to the fencing it paid £300 for planting along the fence to soften its impact.

## 3 Where things go wrong & common complaints

### Conduct of site visits

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. There is no legal requirement for a site visit to be carried out although a council may have rules about how they should be conducted.

Where site visits are carried out we would expect officers to make notes and 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

Tariq complained the council had not taken account of his kitchen when it gave his neighbour planning permission for a two storey side extension and single storey rear extension. Tariq wrote to the council objecting to the development as it would not be in keeping with the rest of the street, would impact on light to his kitchen and encroach on his boundary.

A council officer visited the site before it granted planning permission. The officer failed to notice Tariq's kitchen window when looking at the relationship between his property and the proposed development. We found fault in the way the council considered the impact of the proposed extensions on Tariq's house. It should have been clear that the extension would have a significant impact on light to the kitchen. We also found that the council had failed to consider a number of its policies when reaching its decision to grant planning permission.

The council agreed to remedy the injustice to Tariq by paying for his kitchen to be reconfigured. This cost the council £7000.

## 3 Where things go wrong & common complaints

### Failure to consider objections & evidence

Councils can receive a huge volume of objections and comments to a single planning application or they may receive only a single letter from a concerned neighbour. But whatever the numbers, it is important that the material planning considerations which are 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 a number of different bodies such as the Environment Agency as well as other council departments. We may find fault with other council departments if they do not provide relevant or accurate information to planning officers when asked for comments.



#### **Stuart's story**

Stuart and a number of other residents complained the council had failed to consider their objections to three agricultural buildings close to their homes. Stuart had complained to the council for a number of years about noise and other nuisance from the farm.

The application for the buildings was considered by the council's planning committee, however we found the officer's report to committee was "seriously and inexcusably deficient" as it failed to mention the impact on local residents or the history of complaints about the site. The report also said the local parish council supported the application when it was strongly opposed to it.

We recommended the council commission an independent assessment of the impact of the sheds to see if any action could be taken. We also recommended the council pay Stuart and several other residents £2000 each for nuisance caused by noise and their time and trouble making their complaints.

## 3 Where things go wrong & common complaints

### Failure to consider the impact of a development on neighbouring properties

Objections from local people as well as 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

Leo complained the council failed to take account of the impact of a large housing development on his property when it granted planning permission. Leo had been aware of the proposed development and had gone to an open day held by the developer. The plans he saw showed that one of the new houses would come close to his boundary but he felt he could accept this.

During discussions between the council and developer the configuration of the houses was changed and a larger property was moved from elsewhere on the site and placed 11 metres from Leo's property. He was unaware of the change in the plans and did not object to the planning application.

We found fault in the way the council considered the planning application. Although Leo did not object to the application the council still had to consider the impact the development would have on his property. The officer's report to the planning committee failed to consider this. The council's committee said it would have asked the developer to make amendments to the plans to improve the situation if it had been aware of the issue.

Leo now looks out on a two and a half storey brick wall which is closer to him than the council's policy allows. There was nothing that could be done to mitigate the impact of this. Therefore we recommended the council instruct the District Valuer to value Leo's property before and after the development was built and pay him the difference in value. This came to £4000 which the council agreed to pay.

# 3 Where things go wrong & common complaints

## 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 and how it will be decided.



### Sophia's story

Sophia complained the council reached a decision on her neighbour's planning application before her local councillor could ask the planning committee to consider it.

Sophia contacted her local councillor about the application. The councillor contacted the officer to say he intended to ask that the application be decided by the planning committee and was going to speak with the Chair the following day. Immediately after the phone call the officer reached a decision to grant planning permission.

Although we found no fault in the way the officer reached his decision we were critical of the fact he did not wait to see if the application would be called in. There were limited circumstances in which the application could be called in, but the officer should have waited to ensure transparency in the planning process. The council agreed to write to Sophia to apologise.



# 3 Where things go wrong & common complaints

## 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

Lilly lives in a small village which is part of a designated conservation area. The council's policy said that planning permission for new houses in the village or surrounding countryside would only be granted in exceptional circumstances.

The owner of the land next to Lilly's property submitted a planning application for a bungalow. The council's planning officers recommended refusal of the application because it was not in line with the council's policies and the reasons put forward by the applicant were not exceptional.

The application was put to the council's Planning Committee. The committee granted planning permission and said this was because of the 'exceptional needs' of the applicant. However the committee did not explain what those needs were. The committee imposed a condition saying the new bungalow could only be used by the applicant. This meant that if the applicant died or moved out of the bungalow no one else could move in without permission from the council. Government guidance at the time said this type of planning permission should only be granted in 'exceptional' circumstances and permission for a permanent building would 'scarcely ever be justified'.

We found fault in the way the council had reached its decision. We found that the committee had failed to properly explain its decision that the applicant's circumstances were 'exceptional'. There was no evidence to suggest the applicant's existing property was uninhabitable or that it could not be renovated.

There was nothing that could be done to mitigate the impact of the new development on Lilly's house. Therefore we recommended the council instruct the District Valuer to value Lily's property before and after the development was built and pay her the difference in the value. This amounted to £20,000. We also recommended the council pay Lilly £500 for her time and trouble in pursuing the complaint. The council agreed to pay Lilly £20,500.

# 3 Where things go wrong & common complaints

## 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 says about personal interests. This will protect against allegations of bias and give local people confidence in decisions the council makes.



### Ahmir's story

Ahmir complained the council had given a local councillor planning permission for a house in an area of outstanding national beauty. The councillor was close friends with the Chairman of the Planning Committee. We found that both councillors had a close relationship as they and their families regularly attended the same social functions. The Chairman of the Planning Committee failed to declare this.

The council's constitution and Code of Conduct said councillors must not take part in a meeting if they had a 'prejudicial interest' in what was being discussed. We found the chairman was at fault for not declaring an interest and that he should not have taken part in the meeting.

The council's officer report recommended the committee refuse planning permission for the house because it was contrary to national and local policies and could set a precedent for inappropriate development in an area of outstanding natural beauty. The vote in favour of granting planning permission was finely balanced. If the chairman had not taken part in the meeting planning permission would have been refused.

Following our investigations the Leader of the Council applied to court to have the committee's decision overturned. The judge overturned the decision and said "any fair-minded and informed observer would conclude that there was indeed a real possibility of bias in the decision to grant planning permission". The Council incurred significant costs in dealing with the complaint and subsequent court action. The applicant wasn't able to recover the cost of building the house or any of their legal fees.

## 3 Where things go wrong & common complaints

### Failure to take enforcement action

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, paragraph 207*)

In the last year we have seen a 14% increase in complaints about how councils have dealt with unauthorised developments, although it remains a relatively small proportion of our total cases. We expect councils to carry out a proper investigation 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 started to recover significant sums of money using the Proceeds of Crime Act 2002. This deprives offenders of financial benefit gained from committing the offence and 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 we would expect it to record its reasons for doing so and explain its decision to any complainants.



#### James's story

James complained to the council when the owner of a neighbouring property converted it from a single dwelling to two flats without planning permission. James said he was experiencing lots of noise from the flats. The council served a notice on the owner of the property requiring him to turn it back to a single dwelling by January 2011.

The owner of the property did not do this, but the council did not do anything until after January 2013 when James made a formal complaint. The council took legal action and the property was turned back to a single dwelling in September 2013.

We found delay from January 2011 to January 2013. We decided it was likely the flats would have been turned back into a single dwelling much earlier if the council followed up on the notice served in January 2011. We recommended the council pay James £1000 to recognise the noise nuisance.

## 3 Where things go wrong & common complaints

### Failure to consider own policies & procedures

Councils have to follow their own rules. Even though the council is the 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

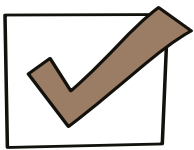
Russell complained the council carried out development without applying for planning permission. Russell lives next to a council-run school. The council installed a footpath, barrier and lights in a school car park next to Russell's house. However it failed to apply for planning permission.

People using the footpath and the car park could easily see into Russell's house as the land levels had been raised. The council realised its error and submitted a planning application. When the council granted planning permission it imposed a condition requiring screening between the car park, footpath and Russell's house. By the time the screening was put up the car park and footpath had been in use for two years.

We found fault with the council for not applying for planning permission before work was carried out. We recommended the council pay Russell £500 in recognition of the overlooking he suffered for two years and £250 for the time and trouble spent pursuing his complaint. The council agreed to pay Russell £750.

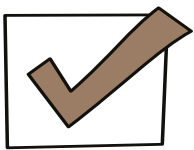
## 4 Getting things right

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



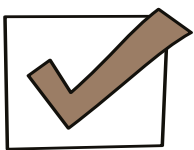
### **Photograph site notices**

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



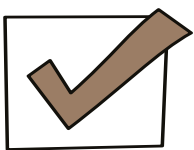
### **Take care when preparing neighbour notification letters**

Notification letters are the most direct way of alerting neighbouring properties to nearby planning applications. However we often find councils are over reliant on computer systems to produce these letters. Therefore extra care should be taken to ensure that it has written to every property entitled to a letter. This can easily be done by looking at location plans and maps, and checking on site.



### **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 other people looking at the file, such as colleagues, understand why they may have reached certain conclusions about the impact of a development.



### **Use the officer report to summarise objections**

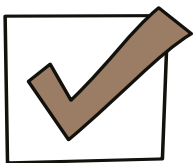
Summarising the substance of objections to a planning application can help objectors feel their voice has been listened to. Some councils separate these into material and non-material considerations which can help local people understand how their objections have been considered.

## 4 Getting things right



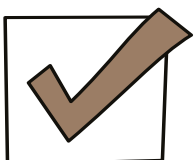
### **Make officer reports easy to find on the council's website**

Councils must now produce a written record of decisions made by officers under delegated powers and make it available to the public for a period of six years. Councils must also keep background material for four years in addition to keeping information as part of the statutory planning register. 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 some councils include it with committee minutes which can be hard to find. Councils in Scotland attach officer reports to decision statements and some councils in England have adopted this as good practice.



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

A council's constitution says which decisions should be made by committee and which decisions 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.



### **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 that explains how different amendments will be dealt with councils will make consistent decisions and local people can understand how amendments are considered.



### **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.



# 4 Getting things right

## Encouraging local accountability – questions for scrutiny

Councils and all other bodies providing local public services should be accountable to local people. The Ombudsman was established by Parliament to support this process. This report sets out the role local councillors play in the planning process. However locally elected councillors also have a democratic mandate to scrutinise the way councils carry out their functions and can hold them to account.

Our experiences of investigating complaints about the planning process have raised a number of key questions that elected members can ask officers locally.



Does the council conform with the good practice check list?



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 Inspector?



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?

# About the Local Government Ombudsman

For 40 years the Ombudsman has independently and impartially investigated complaints about councils and other bodies within our jurisdiction. Our services are free of charge.

If we find something wrong, we can ask the council to take action to put it right. What we ask them to do will depend on the particular complaint, how serious the fault was and how the complainant was affected.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems do not happen again.

## Further information

Visit our website at [www.lgo.org.uk](http://www.lgo.org.uk)

If you have a complaint you would like to make about a council you can contact us on:

0300 061 0614.

## Local Government Ombudsman

**PO Box 4771**

**Coventry**

**CV4 0EH**

**Phone: 0300 061 0614**

**Web: [www.lgo.org.uk](http://www.lgo.org.uk)**

**Twitter: [@LGOmbudsman](https://twitter.com/LGOmbudsman)**