

Advice from Kevin Lane, Monitoring Officer with regard to declarations of interest relating to planning applications

Where a planning application relates directly to land or property owned occupied by an individual councillor (i.e. it comprises, or is part of, the application site) he/she would have a disclosable pecuniary interest and would have to declare this and leave the meeting for the duration of the agenda item.

However the more common position is living, or having some other kind of property interest in land, nearby.

If the council was considering a planning application on land neighbouring a councillor's property they would not have a disclosable pecuniary interest in my view but they should certainly refrain from taking part in the item and I would strongly advise that they leave the room. This is because there would be the appearance of actual or apparent bias on the part of the councillor which, if they took part in the debate and/or vote, would mean that the council decision was susceptible to legal challenge. It is also likely that they would be breaching the code if they took part on the grounds that their interest in the adjacent land means that they have not taken an objective decision on its merits.

The above situations are clear cut. However matters become more grey if, for example, the councillor lives some distance away from the application site but can, for example, see it or they live on a road that would face a significant increase in traffic were the application to be approved albeit they live some distance away.

The basic principle is that the councillor should not take part if an impartial and well informed observer would come to the view that the councillor's participation would give rise to a real possibility of bias. It is therefore an objective test and not a case of what the councillor personally thinks. If the councillor is no more adversely (or beneficially) impacted by the proposal than any other person living in the parish they would be free to take part but if there is an impact on them over and above the parishioners in general they should give consideration to taking no part.

I hope this helps to clarify what can be a difficult question. For your information the Oxon Monitoring Officers have been working with OALC on a guide to this subject area and I would hope that it will be circulated to all Parish Clerks in the near future.

Best wishes.

Kevin Lane

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