



## Planning Committee

12<sup>th</sup> July 2011

### Report from the Director of Regeneration & Major Projects

For Consideration

Wards affected:  
ALL

### Report Title: Future of Planning Committee Site Visits

#### 1.0 Summary

- 1.1 The terms of reference for decision making for the Planning Committee were reviewed in their entirety by the Council in May, following an earlier report to the Planning Committee and the Constitutional Working Group. As part of the discussion by members a request was made to re-examine the way that site visits by the Planning Committee were conducted. This report sets out some options for consideration by members that will ensure a continuation of visits but with a focus on reducing the number of visits, confining attendance at the visits to members of the Committee, and looking at alternatives to the regular Saturday morning arrangements in advance of the Committee meeting. As changes would have implications for the Planning Code of Conduct, any decision to change arrangements would require a decision by the full Council.

#### 2.0 Recommendations

- 2.1 That the Committee considers the following changes to the way site visits are carried out:
- a) To only have site visits to more major developments (with residential schemes normally over 10 new dwellings);
  - b) To restrict attendance at site visits to members of the Committee and relevant officers, with the applicant (or their agent) in attendance to provide access and explain (when required) the scheme;
  - c) That consideration be given to mid-week visits.
- 2.2 That changes be reflected in the in the Planning Code of Conduct to be finally

agreed by the full Council.

### **3.0 Detail**

- 3.1 The review earlier this year of the terms of Reference of the Planning Committee, contained in Part 5 of the Constitution, and the resultant reduction in the number of meetings of the Committee was driven in part by the need to secure efficiencies given the budget and staffing reductions within Planning. In discussions on changes to the terms of reference, the Constitutional Working group also requested a further report on Planning Committee site visits, being of the view that they could be reduced and confined to members of the Committee rather than include an invitation to residents who have made representations, who often misunderstand the purpose of the visit.
- 3.2 Site visits allow members of the Planning committee to view an application site and get a clearer understanding of the proposal and its relationship to surrounding development prior to the formal committee meeting when a decision is made. They have been a very long standing feature in Brent, and generally take place on the Saturday morning prior to the committee meeting. Interestingly, whilst site visits are conducted in other authorities, they tend to be occasional and not a regular occurrence as they are in Bren. Site visits by the Planning Committee are not a statutory requirement and are not a requirement of, or set out in the terms of reference of the Planning Committee in Part 5 of the Council's Constitution. The conduct of site visits is referred to in the Planning code of Conduct in Part 7 of the Constitution however.
- 3.3 Notice of site visits is currently given to the applicant (and their agent), all parties who have made representations on the application and in most cases to ward councillors. Members will be aware that the site visit is not a forum for discussion but for inspection of the site, providing parties that attend an opportunity to highlight various impacts by reference to the site. In practise, particularly on schemes where there is a high level of local interest, site visits can prove difficult to manage and those attending are often frustrated by being told that it is not a forum for debate. As a consequence the value of the public and other third parties being present is questionable, particularly given that comments received are already reflected in the report available to members.
- 3.4 Members of the Planning Committee have over the years expressed some concern over the burden of site visits, undertaken on a Saturday morning prior to each meeting. In the past this has discouraged some members from being on the Committee. It is therefore appropriate to examine other options, including weekday visits. This arrangement has recently been tried, and proved successful although it is accepted that there may be implications for members of the Committee who have work commitments.
- 3.5 Lastly there is the issue of the number of visits made. Members could take the view that visits should only occur on an occasional basis, particularly now that more pre application presentations of schemes to the Committee are being arranged. Theses presentations often involve detailed information of the site and its surroundings, and give members of the Committee advance

notice of proposals and the opportunity to raise general issues. Officers are keen to reduce the overall number of visits and to move towards providing better visual information of the site and its surroundings for individual applications that will further assist members in making informed decisions on applications.

3.6 The need to maintain the public's involvement in the planning process remains critical. However, the issue is how well this objective is served by encouraging an input at such a late stage in the process. Brent's normal public consultation arrangements exceed the statutory minimum requirements are not proposed to be changed. However, the greater emphasis on pre-application consultation, particularly for more major developments, is likely to allow a more effective process for engagement than Members site visits has proved to be.

3.6 Members are invited to express views and preferences that can be reported on to the Constitutional Working Group prior to a recommendation for change to the full Council. A copy of the current Planning Code of Practice is attached to this report.

#### **4.0 Financial Implications**

4.1 The Council's response to the mid year government spending reductions last year involved swift action taken to reduce spending in affected areas. This included the Planning Service where the loss of the Housing and Planning Delivery Grant left a £390k budget gap. The Executive acknowledged that staff reductions would be required and that part of the consequence of this reduction would be decision making efficiencies through changes to the delegation agreement to determine planning applications by officers. Changes to the nature of site visits and a reduction in their number will reduce overheads associated with the Planning Committee.

#### **5.0 Legal Implications**

5.1 The Planning Code of Practice for Members and Officers is set out in Part 7 of the Constitution. Changes to the Constitution require the agreement of Full Council.

#### **6.0 Diversity Implications**

6.1 It is not considered that changes to site inspections will have any adverse impact on those affected by the planning process. There is a statutory requirement to consult on most applications and representation made will still be considered prior to any decision on an application, and will be available to members prior to any site visit being made. Both applicants and parties affected by planning applications will continue to have access to planning staff and elected members, where they will be able to raise concerns. Applicants and third parties will also continue being able to address the Planning Committee prior to any Committee decision being made.

#### **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 Staffing levels in the Area Planning teams, where planning applications are considered, have reduced in the last four years, most recently as a result of the mid year budget reductions in 2010, with the loss of the Housing and Planning Delivery Grant. A reduction in site visits, the exclusion of third parties, and alterations to how and when they are conducted will assist in further reducing the Committee workload.

### **Background Papers**

Brent Constitution (as revised)

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# **PLANNING CODE OF PRACTICE**

## **Purpose of this Code**

The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide Members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is, in addition to the Brent Members Code of Conduct, adopted by the Council under the provisions of the Local Government Act 2000. The purpose of the Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters. The Code seeks to ensure that officers and members consider and decide planning matters in an open and transparent manner. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members of the Planning Committee making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members of the Council in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.

## **General**

1. Members of the Planning Committee shall determine applications in accordance with the Unitary Development Plan unless material considerations indicate otherwise. The Brent Members Code of Conduct and the law relating to Brent Council members' personal and prejudicial interests must be complied with throughout the decision making process. Decisions should not be influenced by personal or prejudicial interests of Councillors or because of undue pressure exerted by applicants, agents or third parties. This Code sets out further rules applicable to the planning process in Brent.

## **Review of Code of Practice**

2. The Director of Legal and Procurement is instructed to commission a report independent of the planning service once every two years on the operation of this Code of Practice. The report should address the extent of compliance with the Code by officers and members, contain an analysis of decisions being made against officers' recommendations and set out any appropriate recommendations for improvement. This report should be presented annually to the Standards Committee.

## **Accountability and Interests**

3. Except as provided for in paragraph 7 of this Code members of the Council should not take part in any discussion of, or vote on, any item if they or their relative, friend or associate is the applicant, agent or objector for that matter.

4. Members of the Council who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be considered for membership of the Planning Committee.
5. Members of the Council who are consistently unable to support the Council's planning policies should not be considered by their political group for membership of the Planning Committee.
6. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a member shall disclose the fact that he/she has been in contact with the applicant, agent or interested party if this be the case.
7. If a member of the Council has a personal interest in any planning application or other matter before the Planning Committee, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the personal interest if they address the Planning Committee meeting on that item.
8. If a member has a personal interest in a matter and if that interest is also a prejudicial interest the member shall withdraw from the room where the meeting is being held and not take part in the discussion save that they may make representations, answer questions or give evidence in respect of the application or matter in question in so far as the public have the right to do so. A member must then withdraw from the room for the rest of that item and play no further part in it.
9. If a member of the Council has a prejudicial interest in a planning application or other matter before the Committee, he/she shall not exercise his or her discretion to require the application or other matter to be referred from officers to the Planning Committee for consideration and nor shall he/she exercise his/her right to request a site visit.
10. For the avoidance of doubt, where a member of the Council is a Freemason or a member of a similar secret society and is aware that the applicant, agent or other interested party in relation to a particular planning application is also a Freemason or a member of the same secret society, the member shall treat this as a prejudicial interest for the purposes of paragraph 8 above.
11. The Monitoring Officer shall maintain a register of contact made by applicants, agents or interested parties with individual members of the Council on each and every planning application, in which members of the Planning Committee must record approaches referred to in paragraph 17 and other members of the Council may record such approaches if they so wish.
12. If any officer of the Council who is involved in making recommendations or decisions on planning applications has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by

the Director of Regeneration and Major Projects and take no part in the decision making process. The declaration of such interest shall also be recorded in the minutes of the meeting. This public register to be available for inspection at Planning Committee meetings.

13. No officer of the Council shall engage in any paid work for any town planning matter for which Brent is the Local Planning Authority other than on behalf of the Council.
14. In relation to all matters not addressed above, all such officers shall comply with the Royal Town Planning Institute Practice Advice Note No.5 relating to Consultancy by Current and Former Employees or any guidance replacing this.

#### Call-in

#### Call-in powers

15. Where under the provisions of the Constitution three members of the Council ask for an application or other matter to be decided by Committee rather than by officers, their request shall state:
  - (i) the reason(s) which should solely relate to matters of material planning concern why they feel the application or other matter should not be dealt with under delegated powers; and
  - (ii) whether or not they have been approached by any person concerning the application or other matter and if so, by whom.

This information shall then be included in the relevant Planning Committee report.

Unless the request and the necessary supporting information outlined above has been provided by both members at least one week prior to the relevant meeting then the matter shall proceed to be determined by officers in accordance with their delegated powers.

#### Development proposals submitted by Councillors who sit on the Planning Committee

16. The Council's monitoring officer should be informed of such a planning application and the application should be reported to the Planning Committee and not dealt with by officers under delegated powers.

#### Approaches to members of the Planning Committee

17. If an approach is made to a member of the Planning Committee from an applicant or agent or objector or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the member of the Planning Committee shall:
  - (i) inform the person making such an approach that such matters should be addressed to officers or to members who are not members of the Planning Committee.

- (ii) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered; and
- (iii) record the approach in the register maintained by the Monitoring Officer under paragraph 11.

For the avoidance of any doubt, if the applicant, agent or objector or other interested party attend and/or speak at a Council organised briefing for members of the Planning Committee then that briefing does not constitute an approach which has to be registered with the Monitoring Officer or disclosed under (ii).

18. Where a planning application is to be determined under delegated powers Councillors should not put improper pressure on officers for a particular recommendation or do anything which compromises, or is likely to compromise the officer's impartiality.

#### Site Visits

19. Save as provided by paragraph 9 above, if three members of the Council request a site visit prior to a meeting of the Planning Committee at which the application in respect of the request is to be considered, they shall provide the following details at least two weeks before the date of the meeting at which the application is to be considered and a record shall be kept of those details:

- (i) their name;
- (ii) the reason for the request; and
- (iii) whether or not they have been approached concerning the application or other matter and if so, by whom.

If the details are not provided then the site visit shall not proceed. Alternatively, during any meeting of the Planning Committee, any member of the Planning Committee may request a site visit in respect of any application on the agenda of the meeting. The member must give the reason for the request.

20. The purpose of a site visit is to gain information relating to the land or buildings which are the subject of the planning application or other matter to be considered by the Planning Committee. A site visit may also assist members of the Planning Committee in matters relating to the context of the application or other matter in relation to the characteristics of the surrounding area. Members attending the site visit should avoid expressing opinions on site visits to any person present.
21. Members of Planning Committee shall not enter any premises which are the subject of a planning application or other matter or known by them to be likely to become such in order to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member of the Planning Committee is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a planning officer.



22. On site visits applicants or other interested parties shall only be permitted to point out to those members of the Planning Committee attending the site visit the features to look at either on the site or in the vicinity, which are relevant to the application or other matter. No discussion will take place on the merits of the application or other matter.
23. Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors.

### **Membership and Jurisdiction of the Planning Committee**

24. When the membership of the Planning Committee is determined, care shall be taken to ensure that for each Ward there is always at least one Councillor who is not a member of Planning Committee. This is so that there will always be a Councillor who is not a member of the Planning Committee with whom residents will be able to discuss planning matters.
25. Any briefings which may be held prior to the Planning Committee meetings shall be open to all members (and alternates) of the Planning Committee. These briefings can help to speed up decision making by giving officers notice of additional information members of the Planning Committee may require at the meeting.
26. All members of Planning Committee, and in particular the Chair, shall be informed from time to time about the relevant provisions concerning access to information contained in the Local Government Act 1972 and in the event of any dispute between members of the Planning Committee and officers as to the application of the 1985 Act, the advice of the Director of Legal and Procurement or his or her representative shall be obtained forthwith.

### **Meetings of the Planning Committee**

27. No material revision to any planning application which might lead to a change in the recommendation of officers shall be considered at Planning Committee unless it has been submitted such reasonable period in advance of the relevant Planning Committee meeting as is agreed by the Assistant Director of Planning and Development and has been the subject of a full appraisal by officers and consultation where necessary and that the minutes shall record the fact that revisions have been made to the application and the reasons for these shall be recorded in the supplementary information.
28. If the Planning Committee wishes to grant planning permission contrary to officers' recommendations the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision

shall be given, which reasons shall then be formally recorded in the minutes of the meeting.

29. When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the minutes of the meeting.
30. Members of the Planning Committee shall refrain from personal abuse and party political considerations shall play no part in their deliberations. Members of the Planning Committee shall be respectful to the Chair and to each other and to officers and members of the public including applicants, their agents and objectors and shall not bully any person. Members of the Planning Committee should not make up their mind before hearing and considering all relevant information at the meeting and should not declare in advance of the meeting, how they intend to vote on a particular application or other matter.
31. Members of the Planning Committee should not speak to members of the public (including applicants and agents) during a meeting of the Planning Committee or immediately prior to or after the meeting concerned, other than where permitted by this Code or Standing Orders.
32. When questioning members of the public or the applicant who have spoken at a meeting of the Committee, members of the Planning Committee shall ensure that their questions relate only to planning matters relevant to the particular application.
33. The minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
  - (i) on any resolution of "Minded to grant or minded to refuse contrary to Officers Recommendation";
  - (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.
34. A member of the Planning Committee shall not vote in relation to any planning matter unless he or she has been present in the meeting of the Planning Committee throughout the consideration of that particular matter as required by Standing Orders . Any dispute as to whether the member of the Planning Committee in question should be permitted to vote shall be decided by the Chair having taken appropriate advice from legal or other officers present.
35. Unless all members of the Planning Committee indicate that they intend to vote in accordance with the officers' recommendation on a particular item, the responsible officer shall be allowed time, at the beginning of the consideration of each application, to summarise his or her advice. If after discussion it

appears that any member of the Planning Committee is minded to vote contrary to the officers' recommendation, the officer shall be allowed a further opportunity to respond to new points which have been raised, and to address the implications of a contrary decision.

### **Member and Officer Relations**

36. Any criticism by members of Planning Committee of officers in relation to the handling of any planning matter shall be made in writing to the Director of Regeneration and Major Projects and not to the officer concerned. No such criticism shall be raised in public.
37. If any officer feels or suspects that pressure is being exerted upon him or her by any member of the Council in relation to any particular planning matter, he or she shall forthwith notify the matter in writing to the Director of Regeneration and Major Projects.
38. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.