



**Audit Advisory Committee**  
10 January 2018

**Report from the Director of Legal  
and HR Services**

**Proposed Changes to the Planning Code of Practice**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	N/A
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	One: • Planning Code of Practice (tracked changes)
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Looqman Desai Senior Solicitor (Governance) Email: <a href="mailto:looqman.desai@brent.gov.uk">looqman.desai@brent.gov.uk</a> Tel: 020 8937 1366

**1.0 Purpose of the Report**

1.1 This report advises Members of proposed changes to the Council's Planning Code of Practice.

**2.0 Recommendations**

2.1 That the Committee notes the proposed changes to the council's Planning Code of Practice which will be reported to Full Council for approval on 22 January 2018.

**3.0 Detail**

3.1 For many years the Council's Members' Code of Conduct has been supplemented by a Planning Code of Practice (the planning code). The planning code provides additional guidance to all Members, but Members of the Planning Committee in particular, both in respect of how the requirements of the Members' Code of Conduct apply in a planning context and also on the standards of conduct and practices which are specific to planning decision making.

3.2 The Council's current planning code was most recently reviewed and subsequently approved in 2014. As part of a wider review of the terms of reference of the Planning Committee and Standing Orders relating to planning procedures, the planning code has been reviewed by the Council's Constitutional Working Group (CWG) with the aim of updating it and improving it in response to local experience and in line with good practice. The opportunity has also been taken to codify advice and guidance issued to Members by the Monitoring Officer from time to time. More recently, the draft changes have been extended to cover pre-application discussions and discussions about undecided applications between Members and developers.

3.3 The revised planning code is attached at **Appendix 1** and the proposed changes have been tracked. This is a summary of the key changes:

- (i) Additional guidance explaining the difference between predisposition (which is lawful) and predetermination (which is unlawful).
- (ii) The rules on when Councillors can request that a planning application is considered by the Planning Committee (i.e. councillor call-in powers) have been incorporated into the proposed changes to the terms of reference of the Planning Committee and removed from the planning code.
- (iii) Removal of the requirement for planning applications submitted by Planning Committee Members to be decided by the Planning Committee in all cases. Instead normal rules, i.e. the updated and improved terms of reference of the Planning Committee (as proposed) which set out when applications have to or can be considered by the Committee, will apply. The relevant criteria, including the general discretion officers have to refer applications to the Planning Committee, provide proportionate safeguards. However, applications considered under officer delegated powers will be approved by the Head of Planning or the Strategic Director Regeneration and Environment.
- (iv) Additional guidance on lobbying.
- (v) There is a new section on 'Discussions between members and meetings with developers or their representatives'. This in part incorporates into the code ad hoc advice issued by the Monitoring Officer to Members in the recent past and in part strengthens the Council's commitment to being seen to be promoting good practice. The requirements aim to strike a proper balance between promoting public confidence in the integrity of the planning process and the legitimate reality of local government life. Of particular note is the requirement that pre-application discussions or discussions about undecided applications between Members and developers (or their representatives), are arranged, attended and documented by an officer.

- (vi) The section on Planning Committee site visits has been amended: site visits will be agreed by the Chair of the Planning Committee and the Head of Planning and the purpose of site visits has been clarified.
- (vii) The requirement to defer an application if the Planning Committee is minded to grant planning permission contrary to the recommendation of officers has been removed. The inflexibility is no longer considered to be necessary or even appropriate. Instead, there is additional guidance on when Members should consider deferring decisions and the following proportionate safeguards will be written into Standing Orders. The requirement for Members to (1) give relevant and sufficient planning reasons, (2) give officers an opportunity to explain the implications of the contrary decision, (3) consider deferring the application and (4) to vote not to defer whenever Members are minded to grant *or refuse* planning permission contrary to the recommendation of officers.
- (viii) The requirement for the planning code to be reviewed every three years has been extended to 4 years.

3.4 The planning code is also being independently reviewed by a planning expert. As previously mentioned, the internal review of the planning code is part of a wider review of planning changes to the Constitution which will be reported to Full Council as a complete package of reforms at its next meeting which there is no need to delay. If any recommendations for further improvements are made, the planning code will be the subject of further consideration and any additional changes will be reported to Full Council for approval.

#### **4.0 Financial Implications**

4.1 None.

#### **5.0 Legal Implications**

5.1 These are contained within the report.

#### **6.0 Equality Implications**

6.1 None.

#### **7.0 Consultation with Ward Members and Stakeholders**

7.1 Not applicable.

**Report sign off:**

**DEBRA NORMAN**

Director of Legal and HR Services