

Planning Code of Practice: INDEPENDENT ANNUAL REVIEW

June 2004 to May 2005

1.0 Introduction

A copy of the current version of the Planning Code of Practice (issued as a part of the Constitution on 16th May 2005) is attached as **Appendix A**.

1.2 Included in the Code is provision for the Borough Solicitor to annually commission a report, independent of the planning service, on the operation of the Code. The report addresses the extent to which there is Code compliance by officers and Members, an analysis of decisions being made against officers' recommendations and any appropriate recommendations for improvement.

2.0 Recommendations

2.1 All Planning Committee Members should endeavour to attend the appropriate training sessions provided.

2.2 Political groups should be further reminded that, when appointing alternates, care should be taken to ensure that all wards will contain a Councillor who is not a Member of the Planning Committee.

2.3 Members of the Planning Committee should be further reminded that attendance at the briefing is important.

3.0 Progress on implementing the recommendations from last years review

The review of the period June 2003 to May 2004, including recommendations, reported to the Standards Committee on 19th October 2004. The actions agreed by the Standards Committee and the progress to date in implementing them are set out below:

3.1 *Members of the Planning Committee should be further reminded, by the Borough Solicitor, that political considerations should play no part when voting on applications.*

3.2 Action Taken: The Borough Solicitor is confident that members are well aware that political considerations should play no part in the decision making process in relation to development control matters. No action was carried out and there was a preference on focusing members' minds on issues in respect of which they do need a clearer understanding.

3.3 *There should be greater understanding, by Planning Committee Members, of the differences between the declaration of Personal Interests, Prejudicial interests and approaches made by applicants or objectors. This*

should be achieved either through formal training sessions or through other means of communication.

3.4 Action Taken: The Borough Solicitor issued a Monitoring Officer Advice Note on the 14th October 2004 which provided advice to members on the difference between registering an interest and declaring an interest and the difference between personal and prejudicial interests and the procedure for responding to them at committee. In addition a webpage dealing specifically with issues of member conduct was set up. The page contains, amongst other things, advice notes from the Monitoring Officer, the Codes of Conduct and the guidance notes and forms relating to hearings of allegations of misconduct.

3.5 *Paragraph 30 of the Code of Practice (and the corresponding Standing Order) should be reviewed so that the risk of members being prevented from taking part in a vote on a matter because of a momentary absence from the meeting is minimized.*

3.6 Action Taken: The requirement to be in attendance for the entire item of business is set out in standing orders and a reference to the standing orders has been added to Paragraph 30 of the Code of practice. In addition, comfort breaks have been introduced to committee meetings to prevent problems of momentary absences in the future. The comfort break will be announced by the Chair during a committee meeting if they feel that the meeting is going to be long, otherwise they will not announce a break.

3.7 *Political groups should be reminded that, when appointing alternates, care should be taken to ensure that all wards will contain a Councillor who is not a Member of the Planning Committee;*

3.8 Action Taken: The Borough Solicitor issued a Monitoring Officer Advice Note on the 14th October 2004 which identified the problems that arose in a recent planning case in another authority which highlighted amongst other things the need for adequate ward representation.

3.9 *Further enhancements to the Committee meeting process should be progressed, especially the provision of a more suitable public address system;*

3.10 Action Taken:

- (I) Democratic Services now provide better visual information systems for members of the public attending through the use of a notice board outside the meeting room.
- (II) Nameplates are used to indicate the member of the committee and the supporting officers
- (III) A projector is used to show the current application under consideration and the decision of those applications already dealt with for the benefit of

members of the public. There is also the facility for projecting images, maps and aerial photographs of the application under consideration.

- (IV) The effectiveness of the PA system has undergone a marked improvement and a microphone system is set-up for each meeting. This makes it easier for members of the public to hear what is actually being said in the meetings.
- (V) The contents of minutes have been reviewed and changes made to make their production more efficient and ensure they adhere to the Council's standing orders. It was agreed that it is not necessary to record the vote in the minutes if the officer recommendation is agreed. Committee Services Officers always record in their notes how planning Committee vote, and so this information is available. After a meeting the minutes are available in time for the next scheduled Planning Committee meeting.

3.11 Because of improvements made during recent years and the consistency of the adherence to the Code, consideration should be given to reducing the audit frequency of the Planning Code of Practice from once per year to once per two years.

3.12 Action Taken: The Director of Environment and the Head of Planning were of the view that the reviews should continue to be undertaken every year so as to ensure that members are constantly reminded of the need to comply with the Codes. This will avoid a recurrence of the events that led to the George inquiry some years ago. This view was supported by the Borough Solicitor and therefore the frequency of reviews was not to be reduced at that time.

4.0 Current Status

4.1 There is a monitoring group process in place to assist the implementation of changes to the operation of the Planning Code and to ensure that administrative procedures are adequate to support the Planning Committee process. The group is made up of senior officers from the Planning Service and Legal and Democratic Services. The group used to meet twice a year under the stewardship of the Corporate Complaints Officer, Angela Hickey, but since her departure the group has not met. The last meeting was held in September 2004 but further meetings are being planned.

4.2 During the review year there have been no complaints to the Ombudsman regarding any allegations of neither significant nor minor breaches of the Code.

5.0 The Current version of the Code of Practice

5.1 Management Services (of Human Resources and Diversity) were commissioned to undertake the review. The Review was conducted using documentary records as a prime information source. These documents

included minutes of Planning Committee meetings, notes of Code Monitoring Group meetings, Planning Service records, Legal and Democratic Services' records and minutes of Standards Committee meetings. In addition, information was gathered through interviews, correspondence and conversations with Officers and Planning Committee members and through attendance at a Planning Committee meeting (24th April 2005).

5.2 Questionnaires were sent to Councillors who were Members of the Planning Committee during the review period. Five completed questionnaires were returned out of twenty eight sent. In addition, the Chair of the Planning Committee, Cllr Cribben, gave her views in an interview.

5.3 The Planning Code was updated on 16th May 2005 to incorporate changes identified during the previous review year. Such changes have been prompted both by the Annual Review of the Code and by the Code Monitoring Group (CMG). The updated Code is now in use and forms part of the constitution. The constitution has been published and is available on the intranet.

5.4 Amendment 1 authorized by the Borough Solicitor 16th May 2005: All references to "Director of Environment" have been amended to read "Director of Environment and Culture" in line with the departmental restructure.

5.5 Amendment 2 authorized by the Borough Solicitor 16th May 2005: Paragraph 22 has been amended to reflect the correct act that governs access to information. The reference to "Local Government Access to Information Act 1985" has been amended to read "Local Government Act 1972.

5.6 Amendment 3 authorized by the Borough Solicitor 16th May 2005: Paragraph 30 has been amended as follows: 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.

5.7 The above recommended change is intended to make it clear to members and officers that the requirement to attend for the entire item of business is set-out in standing orders. This merely provides a cross reference to the standing orders.

5.8 Democratic Services introduced comfort breaks in committee meetings at the suggestion of the monitoring group to prevent occasions of momentary absences in the future. The comfort breaks are announced by the Chair during the Committee meeting if it is considered that the meeting is going to be long otherwise no announcement is made.

5.9 When a Planning Committee meeting is relatively short and a comfort break has not been announced there is still a chance that a member of the

Planning Committee will not be permitted to vote on an item if they have had to leave the meeting for any length of time.

5.10 There was one occasion in a Planning Committee meeting during the review period where a member of the Planning Committee who was not present for the entire consideration of a planning application did not take part in the discussion or voting of the application.

6.0 The review this year

6.1 The Code comprises thirty four paragraphs, each of which has been analysed, as a part of this Review. Paragraphs reproduced below have been abbreviated. The full, current, version of each paragraph can be found in Appendix A:

General

6.2 **Paragraph 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 must be complied with throughout the decision making process. Decisions should not be influenced by personal or prejudicial interests of Councillors.*

6.3 **Comment:** All Planning Committee Members and planning officers have been supplied with copies or have access, via the intranet, to a copy of the Planning Code of Practice and the Brent Members Code of Conduct as part of the current Constitution.

Accountability and Interests

6.4 **Paragraph 3:** *Members of the Planning Committee should not take part in any discussion of, or vote on, any item if the member of the Planning Committee or his or her relative, friend or associate is the applicant, agent or objector for that matter*

6.5 **Paragraph 8:** *When the circumstances of any elected Member are such that they have:*

(i) a personal interest in any planning application or other matter, then the Member, if present, shall declare a personal interest at any meeting where the particular application or other matter is considered, and if the interest is also a prejudicial interest shall withdraw from the room where the meeting is being held and not take part in the discussion or vote on the application or other matter.

6.6 **Comment:** The above paragraphs were complied with during the review period.

6.7 There were twenty four (24) recorded instances of Members declaring personal interests at Committee meetings. Such declarations included those made as a result of having been in contact with applicants or objectors. Nine

of the declarations were made at the start of the meeting, in accordance with the standard agenda item, the others being declared at the commencement of the discussion of the applications. From the minutes of the Committee meetings, all declarations were accompanied by an explanation as to the nature of the interest as required by the Members Code of Conduct. One declaration was deemed to be of Prejudicial Interest and the member of the Planning Committee left the meeting and took no part in the discussion during the consideration or voting of the application. All other declarations were deemed to be of Personal Interest.

6.8 Paragraph 4 ii): *If an approach is made to a member of the Planning Committee from an applicant or agent 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 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*

6.9 Paragraph 7 - *If the Chair decides to allow a non-Member of the Planning Committee to speak, the non-Member shall state the reason for wishing to speak. Such a Member shall disclose the fact he/she has been in contact with the applicant, agent or interested party if this be the case.*

6.10 Comment: There were fifteen occasions where non-Planning Committee Members spoke at Committee meetings. In all of the cases, the minutes recorded reasons for them wishing to speak, whether they had been in contact with the applicant, or other interested parties, and that such declarations of approaches were in accordance with the provisions of the Planning Code.

6.11 There were five occasions where disclosures of approaches to Members of the Planning Committee by an interested party were made. In two of these cases, the Planning Committee Member sought advice from the Borough Solicitor who advised that the approach did not amount to a prejudicial interest and the Councillor did not have to withdraw from discussion or voting of the application.

6.12 This is a reduction compared with previous years (2001 – 54 occasions; 2002 - 15 occasions; 2003 – 7 occasions) and is evidence that Member training and clarification of the definition of Personal and Prejudicial interests is having an impact. The decision to withdraw from discussion and voting remains, however, a voluntary act by the Planning Committee Member; an approach to such a member does not necessarily imply a Personal interest nor is it necessary to withdraw from discussion and voting. This should only be necessary when such an interest could be deemed prejudicial. *Paragraph 8 i) of the Planning Code refers.*

6.13 On one occasion (out of eight) where the Personal interests were declared, the Member withdrew from discussion and voting. It is not, however, a requirement that such a withdrawal should occur upon the declaration of a personal interest, only upon the declaration of a prejudicial

interest. Planning Committee minutes reveal that, in the case of a personal interest being declared, followed by a withdrawal, the Committee Member is demonstrating a misunderstanding of the Planning Code of Practice paragraph 8 i).

6.14 There was one declaration that could be construed as prejudicial interest. It is important that the Committee meeting minutes accurately reflect the circumstances of personal or prejudicial declarations. The evidence suggests that overall there is reasonable understanding of what constitutes a personal interest and under what circumstances a withdrawal from discussion and voting is appropriate.

6.15 Although there is an improvement on last year and therefore a better understanding of the differences between personal and prejudicial interest among the majority of Planning Committee members, some members still require additional guidance. There should be greater understanding, by Planning Committee Members, of the differences between the declaration of Personal Interests and Prejudicial interests. This should be achieved through attendance of training sessions and other means of communication such as the Monitoring Officer's Advice notes.

6.16 In the Planning Code audit of 2004, improved training was identified as an action for improving the understanding of personal and prejudicial interests and how these may be differentiated from having been approached by an applicant, agent or objector. A Monitoring Officer's Advice Note was sent to Planning Committee Members, on the 14th October 2004, to communicate this information further. Training records reveal that only two Planning Committee members attended the most recent (15th January 2004) Standards Training session where this area was addressed.

6.17 **Paragraph 8 (ii)** *where a Member has a prejudicial interest in a planning application or other matter, 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.*

6.18 **Paragraphs 10 I) and 10 ii)** *Where under the provisions of the Constitution two Members of the Council ask for an application or other matter to be decided by Committee rather than by Officers, their names shall be included in the Committee Report. Each Member shall be asked separately for and the Report shall include:*

- (i) A reason why the application or other matter should not be dealt with under delegated powers;*
- (ii) Whether or not they have been approached concerning the application or other matter and if so, by whom*

6.19 **Comment:** There were three cases (compared with four, last year) where Members of the Council requested that applications be decided by Committee rather than via officer delegation. They were:

- Frederick Reed Sports Shop, 78 Walm Lane, London, NW2

- Mapesbury Dell Boundary Wall
- Mosque & Islamic Centre of Brent, Chichele Road, NW2 3DA

In all three cases the conditions at (i) and (ii) above were met, the cases were subsequently heard by Committee and the Committee report included all the required details.

6.20 Paragraphs 5 and 6 - Membership of the Committee, business interests and support for the Council's planning policy

6.21 Paragraph 20: *When the Membership of 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*

6.22 Comment: For all full Planning Committee Members, this part of the Code has been complied with. However, when alternate Members are considered, there is remote potential for non compliance with Paragraph 20. There were two wards where all three councillors were Members of, or alternates for, the Planning Committee;

- Barnhill
- Dollis Hill

Although this is an improvement on the last review political groups should be further reminded that, when appointing alternates, care should be taken to ensure that all wards will contain a Councillor who is not a Member of the Planning Committee.

Alternates should be selected from other Wards that have only one or no Councillors on the Planning Committee, for example:

- Brondesbury
- Kensal Green
- Northwick Park
- Wembley Central

6.23 Paragraph 21: *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.*

6.24 Comment: These briefings occur prior to every Planning Committee meeting and commence at 6.15 pm. The purpose of the meeting is to deal with administrative matters, to bring Members' attention to any new or supplementary information and to determine the running order of the Committee meeting. This is intended to save time during the Committee meeting itself.

A record of attendance continues to be maintained by the Planning Service but, although there has been attendance from Planning Committee Members of all political parties, it is by no means a regular occurrence. Both Planning

Officer's and Planning Committee Members commented on the low attendance at briefings and it is recommended that Members of the Planning Committee should be further reminded that attendance at the briefing is important. Attendance in the review year has been low; therefore the full benefits of the briefings have not been realized.

6.25 Paragraph 12 - *The Director of Environment and Culture 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.*

6.26 Comment: There are two registers kept by the Director of Environment and Culture. The first is the Notification from Members of Approaches Relating to Planning Applications and is for Members of the Planning Committee. There are three entries relating to three different applications during the review year. The three entries all relate to planning application queries or progress updates, presumably at the request of an interested party. The three entries were generated by three Committee Members. The second is a register of contact for non-committee Members. There are fifty entries in this register, compared with nineteen last year. Last year saw a drop in the number of contacts made and it was suggested that this was because there had been a change to the Code. The Code (2003/04) states that the Director of Environment shall maintain a register:

"...in which Members of the Planning Committee must record approaches referred to in paragraph 4 and other Members of the Council may record such approaches if they feel it is appropriate."

This change seemed to be the likely explanation for the reduction in recorded entries, but the increase in the 2004/2005 review period would suggest that members should ensure that they record an approach only if they feel it is appropriate.

The nature of the queries breaks down as follows:

Approached by applicant	4
Query on application	16
Information update request	8
Express view on application	9
Seek assistance	6
Objections to Committee	7

Officer Conduct.

6.27 Paragraphs 13, 14 and 15 *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, then that officer shall declare a prejudicial interest in the public register held by the Director of Environment and take no part.*

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.

6.28 Comment: There were no entries in the public register for declarations of prejudicial interest by officers.

Site Visits

6.29 Paragraph 11: *If any Member of the Council requests a Site Visit, prior to the debate at Planning Committee, their name shall be recorded. They shall provide and a record kept of:*

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

And unless the Member provides these at least one week prior to the relevant meeting the site visit will not proceed.

6.30 Comment: This paragraph has been complied with.

6.31 Paragraphs 16, 17, 18 and 19

16. Members should avoid expressing opinions on site visits to any person present.

17. Members of Planning Committee shall not enter any premises which are the subject of a planning application to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit.

18. on site visits applicants or other interested parties shall only be permitted to point out to Members 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.

19. 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.

6.32 Comment: All above paragraphs were complied with during the review period.

Meetings of the Planning Committee

6.33 Paragraph 23: *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 at least fourteen clear days before the relevant Planning Committee meeting, and has been the subject of a full appraisal by officers.*

6.34 **Comment:** As far as this could be identified, the above paragraph was complied with where there was any material revision.

6.35 **Paragraph 26:** *Members of the Planning Committee shall refrain from personal abuse and party political considerations shall play no part in their deliberations.*

6.36 **Comment:** The Standards committee was formed in 2002. In the three and a half years that they have been in operation, they have not received a single complaint about the behaviour of Planning Committee Members.

6.37 There is a tendency, however, for some voting to follow party lines. Labour members tend to vote as a block, as do Conservative members but this merely shows that people with similar political outlooks vote similarly.

6.38 **Paragraphs 27 and 28:**

27 *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.*

28 *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.*

6.39 **Comment:** As far as could be established, these paragraphs were complied with during the review year. The provision of better information for members of the public attending Planning Committee meetings has ensured that a greater understanding of Planning Committee procedures exists. The Chair has ensured that Members' questions to speakers relate to planning matters.

6.40 **Paragraphs 29, 30 & 31**

29 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.

30. *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.*

31. *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.*

6.41 **Comment:** At a Planning Committee meeting during the review period, a Councillor who was not present for the entire consideration of a planning application did not take part in the discussion or voting of the application. Evidence from the Planning Committee minutes suggests that all these areas of the Code are being complied with.

6.42 **Paragraph 31:** *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.*

6.43 **Comment:** This area of the Code has been complied with.

Planning decisions made contrary to officers recommendations

6.44 **Paragraph 24:** *If the Planning Committee wishes to grant planning permission contrary to officers' recommendation the application shall be deferred to the next meeting of the Committee for further consideration.*

6.45 **Comment:** There were no instances during the review year where the Planning Committee wished to grant planning permission contrary to officers' recommendation. This area of the Code was also complied with in the 2003/2004 review.

6.46 **Paragraph 25** *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 the application shall be deferred for further consideration at the next meeting of the Committee.*

6.47 **Comment:** There was one¹ instance where the Planning Committee voted to refuse an application contrary to officers' recommendations for approval:

- 189 Willesden Lane, NW6 7YN

In this case a statement of the planning reasons for refusal was approved at the same meeting. (Please see **Appendix B** for details)

¹ To be double checked during consultation period

Appeal Decisions

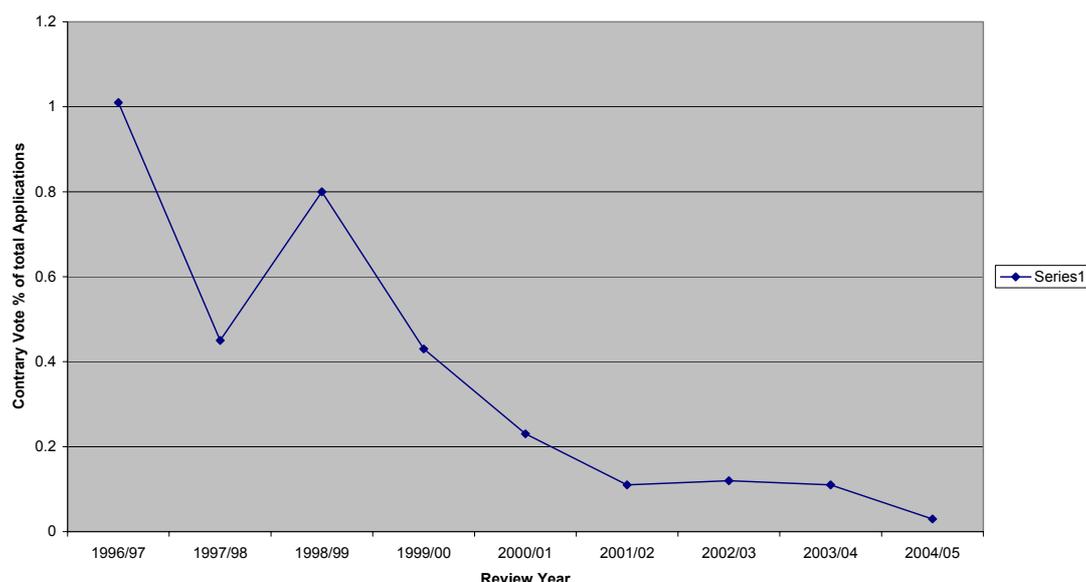
6.48 In the previous year, there were three applications where the Planning Committee voted contrary to officers' recommendations for approval. Only one of these went to appeal and the results are shown below:

- 33 Monks Park, Wembley Approval granted on appeal
- 68/70 Salusbury Road, Queens Park Dismissed at appeal
- 22 Mulgrave Road, Wembley No Appeal

Analysis of applications voted contrary to officers recommendations

Year	Cases Voted contrary to officer recc.	Cases to committee	Total Applications	% of applications heard by Committee	Contrary vote % of total Applications
2004/05	1	204	3719	5.5%	0.03%
2003/04	4	185	3623	5.1%	0.11%
2002/03	4	124	3386	3.7%	0.12%
2001/02	3	301	2781	10.8%	0.11%
2000/01	6	394	2644	14.9%	0.23%
1999/00	10	304	2310	13.2%	0.43%
1998/99	18	458	2259	20.3%	0.80%
1997/98	11	362	2420	15.0%	0.45%
1996/97	19	395	1880	21.0%	1.01%

Applications Voted Contrary to Officers Recommendations



Planning Committee Member & Planning Officer Relations

6.49 **Paragraphs 32, 33 & 34:** *Notification of criticism of officers, or pressure exerted on officers by any Member.*

6.50 **Comment:** It is considered that there are adequate safeguards in place to prevent undue pressure being exerted on officers

6.51 **Paragraphs 9 and 11:** There is no information to suggest that the provisions of these paragraphs (9 - Member of the Freemasons and 22 - Local Government Access to Information Act 1985) have not been complied with.

7.0 Feedback from Members of the Planning Committee and Planning Officers

7.1 Five Members completed questionnaires as a part of this review. There was a general consensus that the Code had been adhered to and that it had been effective. Whilst this feedback may not be considered as being representative, there were some issues raised in relation to the use of the Code:

7.2 All Members are aware of having a copy of the code as a part of the Constitution.

7.3 All members are satisfied with the new PA system at the committee meetings.

7.4 Further training of Members on planning issues was recommended by both Planning Committee Members and Planning Officers.

7.5 Some Planning Officers are concerned about the low attendance levels at the briefings and felt that the "absences undermined the purpose of the meeting".

8.0 Committee Meetings

8.1 Since 2004 a number of features have been introduced to Committee Meetings to provide better process clarity for members of the public and Council Members alike. There is better visual information for members of the public through the use of a notice board outside the meeting room; nameplates are used to indicate the members of the committee and the supporting officers. A projector is used to show the item under consideration and the decision of those already dealt with. There is also the ability to project images of the map of the development and aerial shot of the area it is located in. Finally a good microphone system is set up for each meeting.

8.2 As a result of the changes that have been made, the Planning Committee meetings process is now much clearer for attendees. There is, however, one acknowledged area that still requires some improvement:

- Scheduling and timetabling of application hearings

8.3 There is a tendency for members of the public to attend, in the Committee room, for the duration of the meeting, as they have no prior knowledge about when their particular application of interest is likely to be heard. (This is usually as a consequence of the running order being established in the Briefing meeting, immediately prior to the Committee meeting.) This, in turn, can lead to overcrowding, especially at the start of Committee meetings, and frustration at perceived delays which can cause unnecessary meeting disruption.

8.4 This is currently being looked at by Democratic services and a system of agenda progress communication is under on-going reviews.

9.0 Acknowledgements

The author would like to record her appreciation for the assistance given in the compilation of this report by members of staff and Councillors.

Funmi Odegbami
Management Services (Human Resources and Diversity)

Date: 23rd September 2005

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 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 Borough Solicitor is instructed to commission a report independent of the planning service annually 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. 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. If an approach is made to a member of the Planning Committee from an applicant or agent 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 Director of Environment and Culture under paragraph 12 below.
5. 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.
 6. 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.
 7. 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 he/she has been in contact with the applicant, agent or interested party if this be the case.
 8.
 - (a) When the circumstances of any member of the Council are such that they have a personal interest in any planning application or other matter, then the member if present, shall declare a personal interest at any meeting where the particular application or other matter is considered, and if the interest is also a prejudicial interest shall withdraw from the room where the meeting is being held and not take part in the discussion or vote on the application or other matter.
 - (b) If a member of the Council has a prejudicial interest in a planning application other matter, 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.
 - (c) For the purposes of this Code, in determining whether a member of the Planning Committee has a prejudicial interest, the exceptions in paragraphs 10(2) (a), (b) and (c) of the Members Code of Conduct will not apply.
 9. 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.
 10. Where under the provisions of the Constitution two 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) 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 have been provided by both members at least one week prior to the relevant meeting then the matter proceed to be determined by officers in accordance with their delegated powers.

11. Save as provided by paragraph 8 (b) above, if any member of the Council wishes to 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 one week 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.

12. The Director of Environment and Culture 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 4 and other members of the Council may record such approaches if they feel it is appropriate.
13. 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 Environment and Culture and take no part. 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.
14. 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.

15. 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.

Site Visits by Members of the Planning Committee with Officers

16. 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.
17. 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 (for instance where a member of the Planning Committee is unable to attend the site visit), any visit made shall be accompanied by a planning officer.
18. 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.
19. 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

20. When the membership of 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.
21. 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.
22. 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 Borough Solicitor or his or her representative shall be obtained forthwith.

Meetings of the Planning Committee

23. 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 at least fourteen clear days before the relevant Planning Committee meeting, and has been the subject of a full appraisal by officers.
24. 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.
25. 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.
26. 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. 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.
27. 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.
28. 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.

29. The minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
 - (III) on any resolution of "Minded to grant or minded to refuse contrary to Officers Recommendation";
 - (IV) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.
30. 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.
31. 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

32. 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 Environment and Culture and not to the officer concerned. No such criticism shall be raised in public.
33. 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 Environment and Culture.
34. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.

APPENDIX B

Planning applications voted contrary to officer recommendations 2nd June 2004 to 20th April 2005

Date	Application	Reason
30/11/04	2/04 04/2504 – 189 Willesden Lane, NW6 7YN Demolition of existing dwelling house, erection of a proposed four-storey block of flats, consisting of 3 No one-bedroom flats, 4 No two-bedroom flats to front of property and 2 No three-store town houses to the rear of the property.	Officers' Recommendation Grant planning permission Decision Refusal Reasons The Borough Solicitor advised members that as a matter of principle it would in some circumstances be appropriate to consider whether or not a particular site had been artificially sub-divided in order to avoid the requirement for affordable housing.