



Planning Code of Practice INDEPENDENT ANNUAL REPORT

June 2005 – May 2006

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| Document review account | | | | |
|--------------------------------|-------------|-----------------------------|---|--------------------------|
| Version | Date | Reviewed by | Comments | Author of changes |
| Draft | 10/11/06 | Robert Vale | Amendments to para. 2.1, 3.0, 6.9, 6.10, 6.11, 6.33, 6.37, 7.5, 8.1 | Funmi Odegbami |
| Draft | 03-01-07 | Robert Vale & Terry Osborne | Amendments to para. 2.2, 2.3, 4.2, 6.9, 6.23, 6.24, 6.33, 6.35, 6.37, 6.40, 6.44, 6.54 – 6.56 and section 9.0 | Funmi Odegbami |

Planning Code of Practice: INDEPENDENT ANNUAL REPORT
June 2005 – May 2006

1.0 Introduction

A copy of the current version of the Planning Code of Practice (issued as a part of the Constitution on is attached as **Appendix A** (this was last updated on the 22nd May 2006).

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 Members should be provided with further briefings as is necessary to clarify the issues of personal and prejudicial interests, especially with regards to taking part, or not taking part, in discussions and voting.
- 2.2 Paragraph 23 should be amended to reflect the fact that Planning Officers do not always need 14 clear days to assess a revision to a planning application. This paragraph should be amended to:

"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 14 clear days, or such shorter period as is agreed by the Head of Area Planning, before the relevant Planning Committee meeting, and has been the subject of a full appraisal by officers."

- 2.3 In addition, a monitoring group consisting of the Committee Chair, Democratic Services, Planning and Legal Services, should be re-established to improve communication, generate further improvement ideas and to monitor the effectiveness of implementation.

3.0 Situation regarding the recommendations from last year's review

The review of the period June 2004 to May 2005, including recommendations, reported to the Standards Committee on 22nd November 2005. The Borough Solicitor reported to the Committee on the recommendations put forward by the review; her comments made to the Standards Committee at the time together with any updates from this review are set out below:

- 3.1 *All Planning Committee Members should endeavour to attend the appropriate training sessions provided.*

Comments: Planning Committee members are normally encouraged to attend training sessions arranged for them.

- 3.2 *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.*

Comments: A reminder was sent to Members on 14th October 2004 and the Borough Solicitor does not consider that it is necessary to remind them again. In addition, since the formation of the new Committee and allocation of members in May 2006, there have been signs of improvement.

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

Comments: It was found that attendance at briefing meetings is a matter for Members and it is not essential. However the Borough Solicitor did produce a Monitoring Officer Advice Note issue 25 that was made available on the 4th August 2006 regarding Planning Committee Procedures. In this advice note there was a section on Member's briefing meetings, namely:

"The Purpose of the briefing is to enable officers to meet with members of the Planning Committee to update them on supplementary information received for the planning applications to be considered on the night, together with any legal implications."

4.0 Current Status

- 4.1 Briefing meetings, arranged an hour prior to the start of the meeting, are meant for members of the Committee only and all members of the Committee are asked to make every effort to attend.
- 4.2 The voting of individual members at Committee Meetings is no longer recorded in the minutes unless requested by at least half the Committee, but is kept on record by Democratic Services.
- 4.3 The monitoring group process does not appear to be in place and its' members have not met in over two years. The monitoring group was originally set up 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 was 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 in 2004 the group has not met.
- 4.4 Democratic Services introduced comfort breaks in committee meetings.
- 4.5 Democratic services introduced a Guide to Proceedings document for members of the public to explain the Council's decision-making processes in respect of planning applications put before the Committee.

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

5.0 The Review

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, Planning Service records, Legal and Democratic Services' records and minutes of the 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 (15th August 2006) and a site visit (12th August 2006).

5.2 Questionnaires were sent to Councillors who were Members of the Planning Committee during the review period. Four completed questionnaires were returned.

6.0 Compliance with the Planning Code of Practice

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 eight recorded instances of Members declaring personal interests at meetings. From the minutes of the Planning Committee meetings, all declarations were accompanied with an explanation as to the nature of the interest as required by the Members Code of Conduct.

- 6.8 In five recorded instances of Members declaring a personal interest, the Members stated that they considered that their interest could also be perceived as prejudicial and they did not take part in the item. In another two instances, members did not specifically state that their interest was prejudicial but they did not take part in the item and so it must be assumed that they regarded their interest as prejudicial. In the final instance, although the member declared a personal interest, he took part in the discussion (but not the voting) and therefore he must have felt that the interest was not prejudicial.

- 6.9 The minutes therefore suggest that there may be a misunderstanding of the Planning Code of Practice (Paragraph 8a) for example, if a Committee Member declares a personal interest in an application, then that member can still take part in discussions and vote on the application unless the interest is also prejudicial.

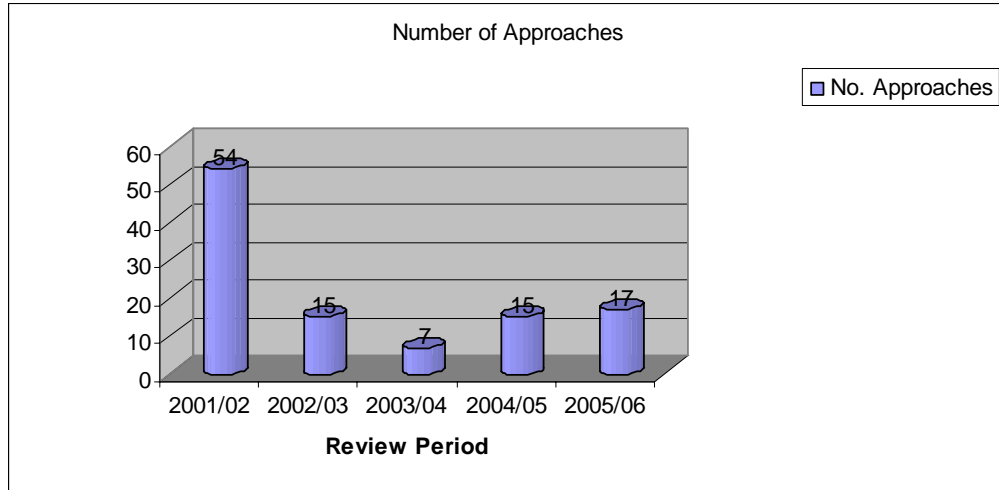
- 6.10 There should be greater understanding, by Planning Committee members, of the differences between the declaration of Personal Interests and Prejudicial Interests. This should be achieved through on-going training as well as other means of communication such as the Monitoring Officer's Advice notes.

- 6.11 **Paragraph 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.*

- 6.12 **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.*

6.13 **Comment:** There were seventeen 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 party, and that such declarations of approaches were in accordance with the provisions of the Planning Code.

Figure 1 Number of Recorded Approaches to non-Planning Committee Members



6.14 There were eleven occasions where disclosures of approaches to Members of the Planning Committee by an interested party were made. In one case the Planning Committee member declared a personal interest in the application which he felt could be perceived as prejudicial so he therefore vacated the meeting room and did not take part in any discussion or vote on this application (refer to example 6.9).

6.15 **Paragraph 8 (b)** *if a Member of the Council 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 for consideration and nor shall he/she exercise his/her right to request a site visit.*

6.16 **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 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.*

6.17 **Comment:** There were seven cases (compared with three found in the last review) where Members of the Council requested that applications be decided by Committee rather than via officer delegation. These are:

- 25 Elmstead Avenue, Wembley HA9
- 16 Wotton Road, NW2

- Howard Road, NW2
 - Power Point 169-171 High Road, NW10
 - 222A-C Inc, Harvist Road, London NW6
 - Avenue Mansions, St Pauls Avenue
 - Frederick Reed Sports Shop, 78 Walm Lane, London, NW2
- 6.18 In all seven 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
- 6.19 **Paragraphs 5 and 6** – *Membership of the Committee, business interests and support for the Council's planning policy.*
- 6.20 **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, or alternates for, the Planning committee;*
- 6.21 **Comment:** For all full Planning Committee Members, this part of the Code has been complied with; however, when alternate Members are considered, there is potential for non compliance with Paragraph 20. There were two wards where all three Councillors were Members of, or alternates for, the Planning Committee, namely Barnhill and Dollis Hill; however, since the formation of the new Committee and allocation of members in May 2006, there have been signs of improvement. Presently, there is one ward, Mapesbury, where all three Councillors are Members of, or alternates for, the Planning Committee.
- 6.22 **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.*
- 6.23 **Comment:** These briefings occur prior to every Planning Committee meeting. 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 itself.
- 6.24 Planning Officer's and Planning Committee Members had previously commented on the low attendance at briefings and attendance during the current period (June 2005 – May 2006) has also been low. However, since June 2006 there have been signs of improvement.
- 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 were eleven entries during the review period all relating

to planning application queries or progress updates. The eleven entries were generated by six Committee Members.

The second is a register of contact for non-Committee Members. There were forty five entries in the register, compared with fifty entries in the last review.

The nature of the queries breaks down as follows:

| | |
|--|----|
| Approached by applicant, agent or interested third party | 6 |
| Query on application | 13 |
| Information update request | 6 |
| Express view on application | 6 |
| Seek assistance | 2 |
| Objections to committee | 7 |
| Other ¹ | 5 |

Officer Conduct

6.27 Paragraphs 13 and 14: *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 leave 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 & Culture 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.

6.31 Comment: There was one entry in the public register, for a declaration of prejudicial interest by an officer of the Council during the review period. The Director of Planning reviewed the processing of the application and was satisfied that the officer had played no part in the consideration of the application.

¹ Other, refers to cases where the nature of the approach was not stated

Site Visits

6.32 **Paragraph 11:** *...if any Member of the Council requests 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) 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. .

6.33 Paragraph 11 was complied with during the review period.

6.34 **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 third 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.*

6.35 **Comment:** The Head of Area Planning confirms that the purpose of the site visit and the accepted Member behaviour is explained to Members of the Planning Committee at the start of each site visit. Based on discussions with the Head of Area Planning it was concluded that the above paragraphs were complied with during the review period.

Meetings of the Planning Committee

6.36 **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.*

6.37 **Comment:** In practice, Planning Officers do not always need 14 clear days to assess a revision to a planning application. This paragraph should be amended to:

“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 14 clear days, or such shorter period as is agreed by the Head of Area Planning, before the relevant Planning Committee meeting, and has been the subject of a full appraisal by officers.”

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

6.39 **Comment:** The Standard Committee was formed in 2002, in accordance with Part III of the Local Government Act 2000 to promote and maintain high standards of conduct for members. In the four years that they have been in operation, they have not upheld a single complaint about the behaviour of Planning Committee Members.

6.40 **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 that particular application.*

6.41 **Comment:** Whilst it is not easy to check compliance, as far as could be established, these paragraphs were complied with during the review period. For both paragraphs, an understanding of Planning Committee procedures, on the part of members of public, is implied. The Democratic Services' officers have added continuous improvements to Planning Committee meetings for members of the public and this has led to a greater understanding of Planning Committee procedures and the Chair has ensured that Members' questions to speakers relate to planning matters.

6.42 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 Officer’s 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.*

6.43 **Comment:** Regarding paragraph 30, during the review period there were ten instances during two separate Planning Committee meetings, where councillors that were not present for the entire consideration of a planning application did not take part in the voting on the application. There were no instances where Members who were absent for any part of discussion of an item took part in the voting on the item. Evidence from the Planning Committee minutes suggests that paragraphs 29 to 31 are being complied with.

6.44 **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.*

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

Planning Decisions made contrary to officers recommendations

6.46 **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.*

6.47 **Comment:** There were no instances, during the review period, where the Planning Committee wished to grant planning permission contrary to officers’ recommendation. This area of the Code has been complied with.

6.48 **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.

6.49 **Comment:** There was one instance where the Planning Committee voted to refuse a Planning Application contrary to officers' recommendations for approval:

- 85 Draycott Avenue, HA3 0DD

In this case a statement of the planning reasons for refusal was approved and entered into the minutes of that meeting. The reasons for refusal are as follows:

"The Committee agreed to refuse the application on the grounds that the layout was considered to be inadequate due to a failure to provide a separate entrance or lobby. In addition to this it was thought that the layout would lend itself to considerable heat loss with resulting sustainability implications."

(Extract from Minutes of the Planning Committee 11th October 2005)

6.50 It was suggested by officers that the low number of Members voting against officer recommendations was due to the fact that Planning Officer's reports are very detailed, Brent Council has a detailed policy about design and that the Planning system is transparent and can be scrutinized.

Appeal Decisions

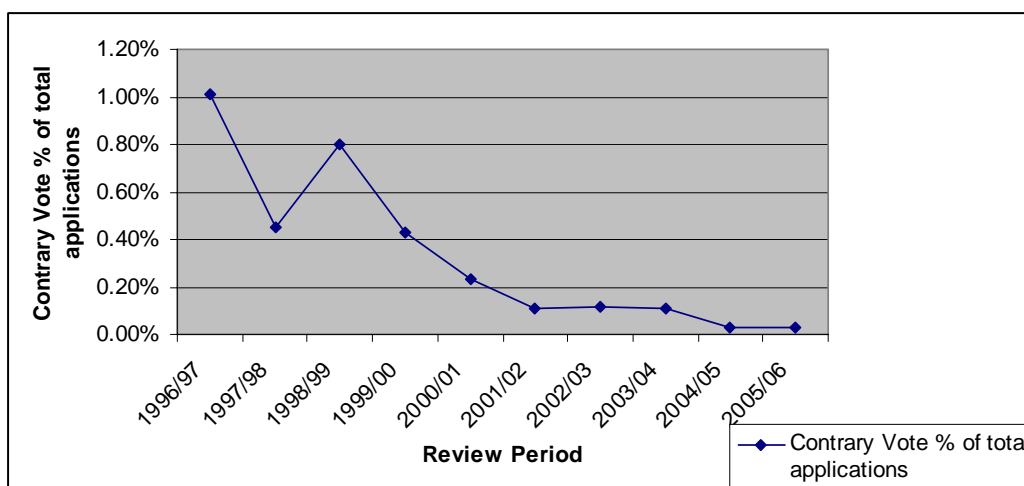
6.51 During the review period (2004/2005), there was only one application where the Planning committee voted contrary to officers' recommendations for approval. This did go to appeal during the review period and the result is shown below:

- 189 Willesden lane, NW6 7YN Approval granted on appeal

Table 1 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 cases to committee | Contrary vote % of total Applications |
|---------|---------------------------------------|--------------------|--------------------|--------------------------------------|---------------------------------------|---------------------------------------|
| 2005/06 | 1 | 143 | 3216 | 4.4% | 0.70% | 0.03% |
| 2004/05 | 1 | 204 | 3719 | 5.5% | 0.50% | 0.03% |
| 2003/04 | 4 | 185 | 3623 | 5.1% | 2.16% | 0.11% |
| 2002/03 | 4 | 124 | 3386 | 3.7% | 3.23% | 0.12% |
| 2001/02 | 3 | 301 | 2781 | 10.8% | 1% | 0.11% |
| 2000/01 | 6 | 394 | 2644 | 14.9% | 1.52% | 0.23% |
| 1999/00 | 10 | 304 | 2310 | 13.2% | 3.3% | 0.43% |
| 1998/99 | 18 | 458 | 2259 | 20.3% | 3.9% | 0.80% |
| 1997/98 | 11 | 362 | 2420 | 15.0% | 3.03% | 0.45% |
| 1996/97 | 19 | 395 | 1880 | 21.0% | 4.8% | 1.01% |

Figure 2 Applications Voted Contrary to Officers Recommendations



Planning Committee Member & Planning Officer Relations

- 6.52 **Paragraphs 32, 33 & 34:** *Notification of criticism of officers, or pressure exerted on officers by any member.*
- 6.53 **Comments:** As a result of discussions with the Head of Area Planning and the Director of Planning, it is considered that there are adequate safeguards in place to prevent undue pressure being exerted on officers.
- 6.54 **Paragraph 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 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...*
- 6.55 **Comments:** There is no information to suggest that the provisions of paragraph 9 have not been complied with.

7.0 Feedback from Members of the Planning Committee and Planning Officers

- 7.1 Four Members completed questionnaires as 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 part of the Constitution and are satisfied that the Code was operated and adhered to properly by Members and officers during the review period.
- 7.3 The need for continued Member training on planning issues was recommended by both Planning Committee Members and Planning Officers.
- 7.4 There was also a suggestion that the general public needed to be more aware of the Code of Practice.
- 7.5 Some officers suggested that there is little communication between the service areas involved in the Planning process outside of Planning Committee meetings, namely Legal and Democratic Services and the Planning Service. The monitoring process had provided a medium in which senior officers from these service areas could discuss the Planning Code, ensure administrative procedures were accurate and implement changes to the operation of the Code. This process is no longer in existence.
- 7.6 It was suggested that Members of the Planning Committees briefing meetings could also be used for determining the order of Committee meetings, to reduce the waiting time for members of the public. Also there should be a separate waiting area for members of the public who are waiting for items that are further down the agenda.
- 7.7 One Member felt that the Code was “too wordy and at times too complicated”.
- 7.8 One member also highlighted the fact that the Planning Committee Members are not a true representation of the diverse community in Brent.

8.0 Committee Meetings

- 8.1 Since the 2004/05 review of the Planning Code of Practice 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 a culture of continuous improvement by the Democratic Services Officers and as a result a plasma screen, showing the outcome of applications considered during the course of the meeting, and a Press Desk have been introduced to Committee meetings.
- 8.2 It is clear that seasoned Committee Members understand the procedures in place, and, for the most part, adhere to them. However, members of the

public and non-Committee Members who attend are not always as well briefed as they could be. As a direct result of this an Information leaflet that explains the Council's decision-making process in respect of planning applications put before the Committee is made available at every Committee meeting.

- 8.3 The contents of the minutes have been reviewed and changes made to make their production more efficient and ensure they adhere to the Council's Standing Orders. As a result, Members' votes are not recorded in the minutes, unless specifically requested by at least half the members present, as this process is not required under the Standing Orders and is not consistent with how other Council Committees' operate.

9.0 Acknowledgments

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 & Diversity)

Date: 30th October 2006

Appendix A

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 has 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:
 - (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 . 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
June 2005 – May 2006**

| Date | Application | Reason |
|-------------|--|---|
| 11/10/2005 | <p>05/2431 – 85 Draycott Avenue, Harrow, HA3 0DD</p> <p>Conversion of dwelling house into two-self-contained maisonettes, comprising of 3-bedroom maisonette on the ground floor, first and second floors and a two bedroom maisonette on the ground and first floors. This includes alterations to the forecourt with vehicular access and hard standing for 2 vehicles and a new front boundary wall. As per revised plans received 28/09/05</p> | <p>Officers' Recommendation Grant Planning Permission, subject to conditions and an informative.</p> <p>Decision Planning Permission Refused</p> <p>Reasons The Committee agreed to refuse the application on the grounds that the layout was considered to be inadequate due to failure to provide a separate entrance or lobby. In addition to this it was thought that the layout would lend itself to considerable heat loss with resulting sustainability implications.</p> |