



Standards Committee
17th January 2007

Report from the Borough Solicitor

For Action

Wards Affected:
ALL

Planning Code of Practice Review

1.0 SUMMARY

1.1 This is an annual report from the Borough Solicitor following the Planning Code of Practice: Independent Review for the period June 2005 to May 2006.

2.0 RECOMMENDATIONS

That Members:

2.1 Note the findings of the Planning Code of Practice: Independent Review for the period June 2005 to May 2006 and the comments of the Borough Solicitor.

2.2 Note that the Democratic Services Manager has amended the Guide to Proceedings provided to members of the public so as to refer to the Planning Code and explain its purpose.

2.3 Note that the Democratic Services Manager will discuss with the Chair of the Planning Committee whether the order of business could be determined immediately before the start of Planning Committee meetings.

2.4 Note that the Borough Solicitor will make an amendment to the Planning Code as set out in paragraph 3.3.2 below.

2.5 Note that Legal and Democratic Services will re-establish the monitoring group referred to in paragraph 3.3.3 below.

3.0 DETAIL

- 3.1 The Planning Code of Practice Review was commissioned by the Borough Solicitor as the annual review required by paragraph 2 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.
- 3.2 A copy of the Planning Code of Practice Review is attached to this report. The report has been prepared by the Council's Consultancy Service within Human Resources and Diversity, which has had access to officers and members and Council records such as minutes and registers of interests.
- 3.3 The report makes 3 recommendations, which are set out below with the observations of the Borough Solicitor.

3.3.1 Members should be provided with further briefings as is necessary to clarify the issues of personal and prejudicial interests , especially with regard to taking part, or not taking part, in discussions and voting.

Comment: Members have been provided with a large amount of training and guidance on this issue. A further training session on planning is taking place on 17 January. However, if it becomes apparent that further guidance is needed then this will be provided as appropriate.

3.3.2 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 fourteen 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."

Comment: the Borough Solicitor will make this amendment to the Code under her powers to make minor amendments to the Constitution.

3.3.3 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.

Comment: the Borough Solicitor will pursue the re-establishment of this monitoring group.

- 3.4 Regarding paragraph 7.4 of the Review, it is considered that it would be helpful to incorporate reference to the Code in the "Guide to Proceedings"

leaflet which is issued to the general public and an amendment has accordingly be made.

- 3.5 Regarding paragraph 7.6 of the Review, it is considered that the determination of the running order is not part of the briefing for the Committee as such. However, it would be helpful for the Chair to agree the running order following the end of the briefing, but immediately prior to the commencement of the meeting, and for this to be shown in a list displayed to the public. Accordingly the Democratic Services Manager will pursue this with the Committee Chair. The foyer outside the Committee rooms acts as a waiting area and accordingly it is not considered that a separate waiting area is required.

4.0 FINANCIAL IMPLICATIONS

- 4.1 None

5.0 LEGAL IMPLICATIONS

- 5.1 The Planning Code of Practice under the Council's Constitution was adopted on 22nd May 2002 and has subsequently been revised from time to time on the recommendation of the Borough Solicitor and this Committee.
- 5.2 Under the Council's Constitution the terms of reference of this Committee include assisting members and co-opted members to observe the Brent Members' Code of Conduct, the Planning Code of Practice (paragraph 2), advising on revisions to the Planning Code of Practice (paragraph 3) and monitoring the effectiveness of the codes (paragraph 4).
- 5.3 Under the Local Government Act 2000, if Members commit a breach of the Brent Members Code of Conduct, the matter can be referred to the Standards Board for England. An Ethical Standards Officer investigating the case could refer it back to the Standards Committee for determination or refer it to a case tribunal of the Standards Board. A Member found to be in breach of the Code could be suspended or disqualified. A finding that a breach had occurred could affect the outcome of an Ombudsman investigation or a judicial review. A breach of the Planning Code of Practice will not necessarily be a breach of the Brent Member's Code (and so may not be something that could be referred to the Standards Board) but adherence to the Planning Code of Practice should mean that planning decisions are able to withstand legal challenge either by judicial review or on appeal or on complaint to the ombudsman.

6.0 BACKGROUND INFORMATION

Planning Code of Practice

Independent annual review of the development control code of practice

Any persons wishing to inspect the papers in connection with the above proposals should contact Terry Osborne at:-

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TERRY OSBORNE
BOROUGH SOLICITOR

APPENDIX

Planning Code of Practice: Independent Annual Review

June 2005 to May 2006