



Standards Committee

30th January 2008

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 Review for the period June 2006 to May 2007.

2.0 RECOMMENDATIONS

that Members:

- 2.1 Note the findings of the Planning Code of Practice: Independent Review for the period June 2006 to May 2007 and the comments of the Borough Solicitor.

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 four recommendations, which are set out below with the observations of the Borough Solicitor.

- 3.3.1 Ensure that members, planning officers and other interested parties are aware of the existence of the Planning Code, its importance and how to access it.

Comment: The code is available on the internet but for the avoidance of any doubt the Borough Solicitor has now provided a hard copy to all members and alternates of the Planning Committee.

- 3.3.2 Make the Planning Code available in the most appropriate mediums and languages and carry out an Equality Impact Assessment to ensure that there is no adverse impact on any group in respect of race, gender, disability, age, sexual orientation and religion and belief.

Comment: As explained above, the Planning Code is available on the internet, and a hard copy can be provided on request. Advice will be taken from the Diversity Unit on whether the document needs to be translated and published in different languages and an Impact Needs Requirement Assessment will also be carried out.

- 3.3.3 Planning, Democratic Services, Legal Services and the Chair of the Planning Committee should establish a group, for officers and/or members to raise concerns and give feedback on any aspect of the planning process.

Comment: The Borough Solicitor will pursue the establishment of such a group with other officers. However, at its meeting on 17th January 2007, the Standards Committee resolved that any issues as to the effectiveness of the implementation of the Planning Code and ideas for its improvement should be referred to the Standards Committee for consideration, and therefore any group which is established would need to refer any such issues on to the Standards Committee.

- 3.3.4 In light of the feedback received on training provided for members, it is recommended that steps should be taken to ensure that future training needs are met.

Comment: Regular training is provided for members of Planning Committee, but the Borough Solicitor will liaise with the Planning Service to ensure that the content of the training is appropriate.

- 3.4 Whilst not a formal recommendation, a further point is raised in paragraph 7.3 of the Planning Code of Practice Review where it is stated that "it would be useful to remind members to give full reasoning when going against officer recommendation". In fact, the requirement in the Code (at paragraph 26) is to give a summary of the reasons for grant, rather than full reasons. When members wish to grant permission against officer recommendation, then the application has to be deferred and the planning officer makes a further report to the Committee at the subsequent meeting. Such report would not normally include a summary of the reasons for grant (since officers normally still recommend refusal). However, it is considered that it would assist members if the planning officer included a suggested summary of such reasons in his or her report. If members still wish to grant, this will then provide them with some suggested wording to base the summary on. The Borough Solicitor will therefore suggest this to the Planning Service.

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 Committee) 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

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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APPENDIX (see attached)
Planning Code of Practice: Annual Review

June 2006 to May 2007